



# Journal of the House

State of Indiana

115th General Assembly

Second Regular Session

Nineteenth Meeting Day

Monday Afternoon

February 18, 2008

The House convened at 1:30 p.m. with Speaker B. Patrick Bauer in the Chair.

The Speaker read a prayer for health and well-being (printed November 20, 2007).

The Pledge of Allegiance to the Flag was led by Representative P. Eric Turner.

The Speaker ordered the roll of the House to be called:

Austin ☐	Hinkle
Avery	Hoy
Bardon	Kersey
Bartlett	Klinker
Battles	Knollman
Behning	Koch
Bell	L. Lawson
Bischoff	Lehe
Blanton	Leonard
Borders	Lutz
Borror	Mays
Bosma	McClain
C. Brown ☐	Micon
T. Brown	Moses
Buck	Murphy
Buell	Neese
Burton	Niezgodski
Candelaria Reardon	Noe
Ceatham	Orentlicher
Cherry	Oxley
Cochran	Pelath
Crawford	Pflum
Crooks ☐	Pierce
Crouch	Pond
Davis	Porter
Day	Reske
Dembowski	Richardson
Dermody	Ripley
Dobis	Robertson
Dodge	Ruppel
Duncan	Saunders
Dvorak	Simms
Eberhart	M. Smith
Elrod	V. Smith
Espich	Soliday
Foley	Stemler
Friend	Steuerwald
Frizzell ☐	Stevenson
Fry	Stilwell
GiaQuinta	Stutzman
Goodin	Summers
Grubb	Thomas
Gutwein	Thompson
E. Harris	Tincher
T. Harris	Torr
Herrell	Turner

Tyler  
Ulmer  
VanDenburgh  
VanHaaften

Walorski  
Welch  
Wolkins  
Mr. Speaker

Roll Call 185: 96 present; 4 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

## HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, February 19, 2008, at 1:30 p.m.

## BATTLES

The motion was adopted by a constitutional majority.

## MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has overridden the veto of the Governor on House Enrolled Act 1388.

MARY C. MENDEL  
Principal Secretary of the Senate

## MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed, without amendments, Engrossed House Bill 1227 and the same is herewith returned to the House.

MARY C. MENDEL  
Principal Secretary of the Senate

## MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed House Bills 1114 and 1165 with amendments and the same are herewith returned to the House for concurrence.

MARY C. MENDEL  
Principal Secretary of the Senate

## MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolutions 20, 21, and 22 and the same are herewith returned to the House.

MARY C. MENDEL  
Principal Secretary of the Senate

## MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolutions 17, 21, 30, 45, 46, and 47 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL  
Principal Secretary of the Senate

## MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolutions 44 and

48 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL  
Principal Secretary of the Senate

#### MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Acts 33, 41, 45, 88, and 210 for signature of the Speaker of the House.

MARY C. MENDEL  
Principal Secretary of the Senate

### RESOLUTIONS ON FIRST READING

#### House Concurrent Resolution 23

Representative Hoy introduced House Concurrent Resolution 23:

A CONCURRENT RESOLUTION urging the establishment of an interim study committee to study mandatory individual health insurance.

*Whereas, It is estimated that thirty-seven million Americans are without health insurance, many while between jobs, and more are underinsured because of the effects of rising health care costs and spending;*

*Whereas, The costs of health insurance have risen dramatically for individuals, including individuals within Indiana's workforce and employers in all economic sectors; and*

*Whereas, The lack of health care insurance interferes with a person's ability to obtain adequate health care to meet the person's needs: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the legislative council is urged to establish an interim study committee to study mandatory individual health insurance.

SECTION 2. That, if the committee is established, it should consider at least the following issues:

- (1) The levels of income that should qualify citizens for public subsidies and the projected state cost for the public subsidies.
- (2) The projected administrative costs for requiring coverage for health care services.
- (3) The projected financial impact on employers in requiring coverage for health care services.
- (4) A comparison of the projected costs in providing universal health care insurance coverage through a publicly funded system with the costs of requiring Indiana citizens to have individual coverage for health care services.

SECTION 3. That the committee, if established, shall operate under the direction of the legislative council and that the committee shall issue a final report when directed to do so by the council.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

#### House Concurrent Resolution 24

Representatives Frizzell, Wolkins, Battles, and Crooks introduced House Concurrent Resolution 24:

A CONCURRENT RESOLUTION urging the establishment of an interim study commission to review the work of utility companies as it impacts private property.

*Whereas, Utility companies must modify the private property of their customers on a daily basis in order to provide basic services (i.e. installation of wires and/or cables, tree trimming, etc);*

*Whereas, Private property owners have expressed grievances as to how their property has been altered by the work of utility companies: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the legislative council is urged to establish an interim study commission to review the work of utility companies as it impacts private property.

SECTION 2. That, if the committee is established, it should consider at least the following issues:

(1) What industry practices are in place and commonly used when private property must be altered.

(2) What grievances constituents have as related to this issues.

SECTION 3. That the committee, if established, shall operate under the direction of the legislative council and that the committee shall issue a final report when directed to do so by the council.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

#### House Concurrent Resolution 25

Representative C. Brown introduced House Concurrent Resolution 25:

A CONCURRENT RESOLUTION supporting the location of a children's hospital, a medical school teaching hospital, and a trauma center in the city of Gary.

*Whereas, During the 2007 interim, the health finance commission studied issues related to the need for a new hospital facility in Gary;*

*Whereas, Gary and the surrounding communities contain a significant percentage of the population of Indiana;*

*Whereas, Gary is located in an area with several intersecting interstate highways;*

*Whereas, The Indiana University School of Medicine's regional campus at Indiana University Northwest is scheduled to provide its students with a complete four year medical school course of study;*

*Whereas, There is currently no children's hospital, medical school teaching hospital, or trauma center located in Gary or the surrounding communities, which requires transfers of seriously injured or ill patients to larger cities in Indiana and Illinois; and*

*Whereas, The health finance commission has determined that the location of a children's hospital, a medical school teaching hospital, and a trauma center in Gary would be beneficial to the citizens of Indiana: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the Indiana General Assembly supports the determination that the location of a children's hospital, a medical school teaching hospital, and a trauma center in the city of Gary would be beneficial to the citizens of Indiana.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to Rudy Clay, mayor of Gary.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

#### House Concurrent Resolution 26

Representative Thompson introduced House Concurrent Resolution 26:

A CONCURRENT RESOLUTION recommending that the

Indiana Department of Transportation designate a Memorial Mile on Interstate 65 honoring Master Trooper Michael Greene.

*Whereas, Michael Earl Greene was born in Lebanon, Indiana, and spent most of his life as a proud resident of Boone County;*

*Whereas, Michael Earl Greene, a devoted father to his son and daughter, was called to serve and protect his fellow citizens, became an officer with the Indiana State Police, and rose to the rank of Master Trooper;*

*Whereas, Master Trooper Michael Greene was last assigned to the Indianapolis post;*

*Whereas, Master Trooper Michael Greene, at the young age of 43, was killed in the line of duty on February 5, 1993;*

*Whereas, While stopping to question two men who were outside of their vehicle along the side of Interstate 65 in Marion County, Master Trooper Michael Greene learned that both men were wanted on outstanding warrants;*

*Whereas, As he was handcuffing the first of the two suspects, the second suspect fatally shot Master Trooper Michael Greene in the chest;*

*Whereas, Master Trooper Michael Greene served the Indiana State Police with honor for over 16 years;*

*Whereas, Master Trooper Michael Greene gave his life in service to the state and country that he loved: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the Indiana General Assembly expresses its deepest gratitude for the life and service of Master Trooper Michael Greene and urges the Indiana Department of Transportation to designate a Memorial Mile on Interstate 65 in his honor.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the commissioner of the Indiana Department of Transportation and to the Greene family.

The resolution was read a first time and referred to the Committee on Roads and Transportation.

### House Concurrent Resolution 27

Representative Duncan introduced House Concurrent Resolution 27:

A CONCURRENT RESOLUTION to urge the Legislature of the State of Indiana and the Indiana Republican and Democratic parties to pursue the goal of having a national primary to elect the President of the United States.

*Whereas, The current structure for Presidential primaries/caucuses allows for only a small sample of the U.S. population to have a voice in who will be selected as the next President of the United States;*

*Whereas, Iowa and New Hampshire, who host the first two Presidential primaries/caucuses, represent less than 2% of the nation's population but receive a grossly disproportionate amount of the candidates' time and campaign dollars in the early stages of the race when a variety of candidates are pursuing the Presidency;*

*Whereas, Many candidates can not afford to remain in the Presidential race if they do not win or place high in the Iowa and New Hampshire contests; therefore, those candidates are not even able to be considered for the office by the vast majority of the nation's voters;*

*Whereas, The recent trend of "front-loading" in which states are violating the terms of their party rules in order to host primaries/caucuses at earlier dates, may be beneficial to the*

*specific states involved, but is further hurting the nomination process and is creating a cause and effect problem where the campaign season is getting extended to historic lengths;*

*Whereas, Our country is comprised of states who are all proudly unique and diverse; therefore, the desires and opinions of one state or of a small collection of states will never represent the desires and opinions of all states;*

*Whereas, If each state were to have an equal opportunity to consider the full field of men and women who pursue the office of the Presidency, the candidates chosen during the primary process would truly represent the desires and opinions of the nation's citizens: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the Indiana General Assembly urges the political parties of the State of Indiana to take the steps necessary to pursue the goal of a national Presidential primary so that Indiana can have more of a voice in future Presidential elections.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the Indiana Republican and Democratic parties.

The resolution was read a first time and referred to the Committee on Elections and Apportionment.

### House Resolution 36

Representative Kersey introduced House Resolution 36:

A HOUSE RESOLUTION urging the legislative council to assign the topic of forestry conservation to the Natural Resources Study Committee.

*Whereas, Indiana forests provide recreational opportunities, wildlife, pure air and soil protection, wood products, jobs, and income to the citizens of our state;*

*Whereas, However, greater demands are being placed on our forests, and forests are being reduced in area, parcel size, and quality; and*

*Whereas, Population pressure will continue to place heavier demands on our forests; if they are to survive, we must explore means to conserve the resource while continuing to receive its benefits: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana:*

SECTION 1. That the legislative council is urged to assign the topic of forestry conservation to the Natural Resources Study Committee.

SECTION 2. That the issues studied by the Natural Resources Study Committee should include, but are not limited to the following:

- (1) Examination of how forests relate to the role of all state agencies.
- (2) Elimination of incentives to clear, change, and/or divide forests.
- (3) Creation of incentives to conserve and manage forests.
- (4) Ways to update, improve, and better use existing approaches to forestry conservation.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

### House Resolution 37

Representative Welch introduced House Resolution 37:

A HOUSE RESOLUTION urging the legislative council to assign to the Health Finance Commission the topic of quality postabortion care.

*Whereas, Complications to abortions pose a serious global*

*threat to women's health and lives: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana:*

SECTION 1. That the legislative council is urged to assign to the Health Finance Commission the topic of quality postabortion care.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

### House Resolution 38

Representative Buck introduced House Resolution 38:

A HOUSE RESOLUTION urging the study of the feasibility of establishing an Indiana Statehouse Visitor's Center.

*Whereas, The Indiana Statehouse enjoys a rich history;*

*Whereas, Thousands of Hoosiers visit the Statehouse each year;*

*Whereas, Many of these visitors desire more information about Indiana's heritage and desire the opportunity to purchase souvenirs; and*

*Whereas, Hoosiers take great pride in their past and would enjoy the opportunity to show that pride: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana:*

SECTION 1. That the legislative council is urged to assign the feasibility of establishing an Indiana Statehouse Visitor's Center as recommended by the Indiana Statehouse Museum Committee.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

### House Resolution 39

Representative Orentlicher introduced House Resolution 39:

A HOUSE RESOLUTION urging the legislative council to assign to the Health Finance Commission the topic of home health agency expenditures.

*Whereas, Increasing amounts of public funds are being used to provide home health care; and*

*Whereas, It is critical to the state and its citizens that the agencies providing this home health care should be monitored: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana:*

SECTION 1. That the legislative council is urged to assign to the Health Finance Commission the topic of home health agency expenditures.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

### House Resolution 40

Representative Welch introduced House Resolution 40:

A HOUSE RESOLUTION regarding the current and future need for the services of licensed nurses.

*Whereas, The health care delivery system is dependent upon an adequate supply of qualified, licensed, registered nurses to meet the needs of consumers;*

*Whereas, The largest age cohort of registered nurses in the United States is 45 - 49 years of age;*

*Whereas, Many registered nurses are expected to retire from the workforce in the near future;*

*Whereas, The population of individuals over 85 years of age is the fastest growing age group in the nation and is expected to consume a disproportionate amount of health care services; and*

*Whereas, The need for the services of licensed nurses will increase proportionately with the needs of our aging populace: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana House of Representatives urges the State Department of Health to convene a commission/work group/task force to undertake a strategic planning process designed to identify educational opportunities for individuals wishing to pursue careers in nursing, barriers to entry into the nursing profession, and those issues and factors that would favorably respond to such barriers. The commission/work group/task force shall submit its findings in the form of a report to the Indiana General Assembly with a listing of proposed public policy initiatives not later than December, 2008. The report must be in an electronic format under IC 5-14-6.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the commissioner of the State Department of Health.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

### House Resolution 41

Representative Orentlicher introduced House Resolution 41:

A HOUSE RESOLUTION urging the Indiana department of transportation to name that part of Interstate 65 north of Interstate 465 the "Kurt Vonnegut, Jr. Memorial Highway".

*Whereas, Kurt Vonnegut, Jr. was born on November 11, 1922, Armistice Day, in Indianapolis, Indiana;*

*Whereas, Kurt Vonnegut, Jr. was the great-grandson of Clemens Vonnegut, founder of Vonnegut's Hardware Store; grandson of Bernard Vonnegut, cofounder of the architectural firm of Vonnegut & Bohn, designers of such historic Indianapolis structures as Das Deutsche Haus, now known as The Athenaeum, Methodist Hospital, and the original L.S. Ayres store; and son of Kurt Vonnegut Sr., a prominent Indianapolis architect, and Edith Lieber, the daughter of Indianapolis brewer Albert Lieber;*

*Whereas, During his formative years, Kurt Vonnegut, Jr. attended Orchard School and Public School No. 43, the James Whitcomb Riley School, which was near his family's home on Illinois Street, and he graduated from Shortridge High School, where he was editor of "The Echo", at the time one of the few high school daily newspapers in the United States;*

*Whereas, Kurt Vonnegut, Jr. attended Cornell University, studying chemistry and biology, until enlisting in the United States Army in 1943 and serving in Europe until he was captured by German troops during the Battle of the Bulge;*

*Whereas, After being captured, Kurt Vonnegut, Jr. was put to work as a prisoner of war in Dresden, Germany, where he survived the Allied firebombing that destroyed the city, killed approximately 135,000 people, and became the basis of his classic novel "Slaughterhouse-Five";*

*Whereas, After Kurt Vonnegut, Jr. returned from Europe, he worked at the Chicago City News Bureau while pursuing graduate studies in anthropology at the University of Chicago, which finally awarded him his master of arts degree in 1971 after accepting his novel "Cat's Cradle" in lieu of a thesis;*

*Whereas, While working in public relations for General Electric Company in Schenectady, New York, Kurt Vonnegut, Jr. began a writing career that produced numerous short stories, plays, screenplays, essays, and novels, including "Player Piano", "The Sirens of Titan", "Bluebeard", "Hocus Pocus", "Timequake", "Cat's Cradle", "Breakfast of Champions", and "Slaughterhouse-Five"; and*

*Whereas, Kurt Vonnegut, Jr. passed away April 11, 2007, at the age of 84: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana House of Representatives urges the Indiana department of transportation to name that part of Interstate 65 north of Interstate 465 the "Kurt Vonnegut, Jr. Memorial Highway".

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the commissioner of the Indiana department of transportation.

The resolution was read a first time and referred to the Committee on Roads and Transportation.

### House Concurrent Resolution 29

Representative Crawford introduced House Concurrent Resolution 29:

A CONCURRENT RESOLUTION honoring Father Boniface Hardin on his retirement as president of Martin University.

*Whereas, Father Boniface Hardin began his education at St. Meinrad High School in 1951 and later joined the St. Meinrad Archabbey;*

*Whereas, Father Hardin founded Martin University in Indianapolis in 1977 and served as its president until his retirement on December 31, 2007;*

*Whereas, The mission of Martin University is to serve low income, minority, and adult learners in a healing and freedom-minded environment;*

*Whereas, During Father Hardin's tenure as president of Martin University, over 1,200 degrees were conferred upon Martin graduates;*

*Whereas, Father Hardin also was the co-founder of the Indianapolis Sickle Cell Center, founder and director of the Northwest Action Council, co-founder of the Negro-Jewish Dialogue, and co-founder of the Human Relations Consortium; and*

*Whereas, The self-sacrifice and dedication exhibited by Father Hardin throughout his 30-year tenure as president of Martin University have been an inspiration to the state of Indiana and its citizens: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana General Assembly thanks Father Boniface Hardin for his work and dedication as president of Martin University

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Father Boniface Hardin.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Breaux.

The Speaker yielded the gavel to the Deputy Speaker Pro Tempore, Representative E. Harris.

### House Concurrent Resolution 30

Representative Crawford introduced House Concurrent Resolution 30:

A CONCURRENT RESOLUTION memorializing Congresswoman Julia Carson for her many years of outstanding service to the citizens of Indiana and her community in central Indiana.

*Whereas, Congresswoman Julia Carson was born July 8, 1938, and passed away on December 15, 2007, at the age of 69;*

*Whereas, The daughter of Velma Porter, Congresswoman Julia Carson was born in Louisville, Kentucky, and is survived by children, grandchildren, and great-grandchildren;*

*Whereas, Congresswoman Julia Carson became the first woman and the first African-American to represent Indiana in the United States House of Representatives when she was elected to that office in 1996, and she served in that office until her death;*

*Whereas, Congresswoman Julia Carson was elected to the office of Center Township Trustee in 1990 and served in that office through 1996;*

*Whereas, Congresswoman Julia Carson was elected to the Indiana State Senate in 1976 and served in that office through 1990, where she served on the Health and Human Services Committee and Public Safety Subcommittee;*

*Whereas, Congresswoman Julia Carson was elected to the Indiana House of Representatives in 1972 and served in that office through 1976, where she served on the Human Services and Election and Apportionment Committees;*

*Whereas, Prior to seeking elected office, Congresswoman Julia Carson worked on behalf of Hoosiers in the office of Congressman Andy Jacobs where she instituted a program of performing the constituents' casework where they live, thereby creating a new standard for Congressional business that is followed today;*

*Whereas, Throughout all of her public service, Congresswoman Julia Carson worked tirelessly on behalf of children, women, veterans, and the homeless by writing and promoting legislation and implementing programs to provide needed services to her constituents while saving tax dollars;*

*Whereas, Congresswoman Julia Carson successfully authored a bill to award the Congressional Gold Medal to civil rights pioneer Rosa Parks in 1999;*

*Whereas, Congresswoman Julia Carson as a member of the United States House of Representatives effectively secured federal funds for the city of Indianapolis to assist with transportation, environmental issues, and neighborhood preservation, including funds for the Central Waterfront Project, the reparation of Veterans Memorial Plaza, and the Children's Museum;*

*Whereas, Congresswoman Julia Carson personally donated a building to the Hoosier Veterans Assistance Program for the development of the Carson House, a transitional housing for formerly homeless veterans; and*

*Whereas, Through her public life and private actions, Congresswoman Julia Carson inspired, touched, and served all Indiana citizens by her words and deeds: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. The Indiana General Assembly honors the invaluable lifetime services and achievements of Congresswoman Julia Carson.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the family of Congresswoman Julia Carson.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Breaux.

### House Concurrent Resolution 31

Representative Bischoff introduced House Concurrent

## Resolution 31:

A CONCURRENT RESOLUTION recognizing Charles Thayer.

*Whereas, Charles Thayer and his family have spent most of their lives in Aurora, Indiana;*

*Whereas, A graduate of Aurora High School, Charles Thayer served in the United States Army from 1952 to 1955 and spent some time in Europe;*

*Whereas, Upon his discharge, Charles Thayer returned to Aurora, where he began working for Seagrams, a job he retired from after 32 years of dedicated service;*

*Whereas, Charles Thayer married his wife Sandy in 1955 and together they had three children: Jim, Debra Ann, and Robert Wayne;*

*Whereas, In 1967, Charles Thayer was elected to his first term as a member of the Aurora City Council, a position he held for 10 terms;*

*Whereas, During his forty years on the City Council, Charles Thayer witnessed tremendous change; he lived through floods, fires, major improvement projects, a \$2.3 million renovation project to the oldest active city building in Indiana, and changes to the business district;*

*Whereas, Always actively involved with the youth of Aurora, Charles Thayer started the first Fast Pitch Softball League in the area in 1955 and has been instrumental in the development of several other sports fields;*

*Whereas, Charles Thayer has played an active role in the listing of the downtown area as a National Historic District and in helping to place at least four properties on the National Registry of Historic Places; and*

*Whereas, Charles Thayer has been a colleague, mentor, and friend to many throughout his career; his dedication to family, friends, and community makes Indiana a great place to live: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the Indiana General Assembly thanks Charles Thayer for his years of dedicated service to the citizens of Aurora and the state of Indiana.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Charles Thayer and his family.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Nugent.

**House Concurrent Resolution 32**

Representative Ruppel introduced House Concurrent Resolution 32:

A CONCURRENT RESOLUTION honoring Bill Patrick.

*Whereas, Bill Patrick has enjoyed a long and illustrious basketball career;*

*Whereas, In recognition of his outstanding career, Bill Patrick will be inducted into the Indiana Basketball Hall of Fame;*

*Whereas, Currently in his 11th season as coach at Tippecanoe Valley, Bill Patrick has a 39-year record of 644 wins and 221 losses;*

*Whereas, A 1956 graduate of Sidney High School, now known as Whitko High School, Bill Patrick spent 28 years coaching at Whitko and led the Whitko Wildcats to the 1991 Final Four;*

*Whereas, During his career, Bill Patrick has recorded 15*

*conference championships, 15 sectional championships, 3 regional championships, 1 semi-state appearance, and an undefeated season in 1979-1980;*

*Whereas, Bill Patrick, who has never experienced a losing season in his career, credits the schools and the players he coached for his success and his induction into the Indiana Basketball Hall of Fame; and*

*Whereas, Great accomplishments deserve special recognition: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the Indiana General Assembly congratulates Bill Patrick on his induction into the Indiana Basketball Hall of Fame and wishes him continued success in all his future endeavors.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Bill Patrick and his family.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Weatherwax and Dillon.

**House Concurrent Resolution 33**

Representatives Ruppel, Friend, Tincher introduced House Concurrent Resolution 33:

A CONCURRENT RESOLUTION memorializing Master Trooper Detective David E. Rich.

*Whereas, Master Trooper Detective David E. Rich was born to be a member of the Indiana State Police;*

*Whereas, David E. Rich comes from a family with a long tradition of service to the community and the state;*

*Whereas, Since his birth on April 8, 1966, David E. Rich had dreamed of serving his state as a state police trooper;*

*Whereas, His father, Jack Rich, joined the Indiana State Police in 1958, retiring in 1990 to serve as Sheriff of Miami County for two terms;*

*Whereas, His brother, Bob, serves as the Area II Captain;*

*Whereas, On November 19, 1989, David E. Rich fulfilled a lifelong goal and became a member of the Indiana State Police;*

*Whereas, Originally assigned to Lafayette, Master Trooper Detective David E. Rich returned to the Peru post to be closer to home;*

*Whereas, A devoted family man, Master Trooper Detective David E. Rich married his wife, Connie, on March 28, 1998, and together they had three beautiful children, Lauren, Connor, and Carson;*

*Whereas, Master Trooper Detective David E. Rich was killed in the line of duty on July 5, 2007;*

*Whereas, Master Trooper Detective David E. Rich was shot and killed while investigating an apparent stranded vehicle on U.S. Highway 24 near State Road 115, one mile west of Wabash;*

*Whereas, While on his way home dressed in plain clothes and driving an unmarked car, Master Trooper Detective Rich stopped to help what he thought was a motorist stranded along the side of the road;*

*Whereas, Unaware that the man was driving an SUV that had been reported stolen on the previous day, he approached the vehicle and was shot by the driver;*

*Whereas, Master Trooper Detective David E. Rich served with the state police for 18 years;*

*Whereas, Master Trooper Detective Rich was a devoted*

*husband, loving father and son, and good friend to many; these qualities endeared him to all who knew him;*

*Whereas, Master Trooper Detective David E. Rich will be greatly missed by his family, his friends, his brothers in the state police, and the citizens of the state of Indiana; and*

*Whereas, Master Trooper Detective Rich is a hero who came from a family of heroes who served their state honorably and without fear: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana General Assembly expresses its deepest regrets to the family of Master Trooper Detective David Rich and to thank them for his years of dedicated service to the citizens of Indiana.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to his wife, Connie, his parents, and his brother and sister.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Dillon and Weatherwax.

### House Concurrent Resolution 34

Representative Koch introduced House Concurrent Resolution 34:

A CONCURRENT RESOLUTION urging the Department of Administration to create a memorial to Senator William Ezra Jenner in the State House.

*Whereas, Senator William Ezra Jenner was born in Marengo, Indiana, on July 21, 1908;*

*Whereas, Senator Jenner graduated from Indiana University School of Law in 1930 and set up practice in Paoli;*

*Whereas, Senator Jenner was elected to the Indiana State Senate in 1934 and served as Minority Leader, Majority Leader, and President Pro Tempore during his eight years as a state senator;*

*Whereas, Senator Jenner resigned his seat in 1942 to serve in the military during World War II;*

*Whereas, In 1944, he returned to fill a vacancy in the United States Senate caused by the death of Frederick Van Nuys;*

*Whereas, Senator Jenner served in the Senate from November 14, 1944, to January 3, 1945, but was not a candidate for re-election to a full term;*

*Whereas, Senator Jenner was elected to serve in the United States Senate in 1946 and was re-elected in 1952;*

*Whereas, Senator Jenner did not seek re-election in 1958;*

*Whereas, In 1959, Senator Jenner returned to Indiana to practice law in Bedford until his death in 1985; and*

*Whereas, Senator William Ezra Jenner fought bravely for his country during World War II and served his constituency faithfully and to the best of his ability for many years both in Indiana and Washington, D.C.; it is fitting and proper that the citizens of Indiana reserve for him a place of honor in the State House: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana General Assembly wishes to honor Senator William Ezra Jenner by creating a memorial to him in the State House.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the

commissioner of the Department of Administration.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

### House Concurrent Resolution 35

Representative McClain introduced House Concurrent Resolution 35:

A CONCURRENT RESOLUTION recommending that the Indiana Department of Transportation designate a Memorial Mile on State Road 17 in downtown Logansport honoring Trooper Daniel Roy Barrett.

*Whereas, Trooper Daniel Roy Barrett was born October 27, 1982, to proud parents Vincent and Sarah Barrett and grew up in Logansport, Indiana with his brothers Matthew and Patrick and sister Laura;*

*Whereas, Daniel Barrett was devoted to his family and loved spending time with them, especially his Nana, Jane Hanna;*

*Whereas, An honors graduate from Logansport High School, Daniel Barrett received the school's Academic Achievement Award for outstanding drafting and design, and in 2002, wrote the book, Where is Tomorrow?;*

*Whereas, In addition to law enforcement, Daniel Barrett enjoyed a variety of interests including fishing, hunting and riding four-wheelers;*

*Whereas, Daniel Barrett served the state as a correctional officer prior to joining the Indiana State Police;*

*Whereas, A graduate of the 67<sup>th</sup> Indiana State Police Recruit Academy on July 6, 2007, Trooper Daniel Barrett was assigned to patrol primarily in Fulton County;*

*Whereas, Trooper Daniel Barrett, at the young age of 25, was killed in a single vehicle crash along U.S. 31 while on duty Sunday, January 27, 2008;*

*Whereas, Trooper Daniel Roy Barrett served his state with honor, was a friend to all who knew him, and will be greatly missed and long remembered: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana General Assembly expresses its deepest regrets to the family of Trooper Daniel Roy Barrett, thanks them for his dedicated service to the citizens of Indiana, and urges the Indiana Department of Transportation to designate a Memorial Mile on State Road 17 in downtown Logansport in his honor.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the commissioner of the Indiana Department of Transportation and to the Barrett family.

The resolution was read a first time and referred to the Committee on Roads and Transportation.

### House Concurrent Resolution 36

Representatives Leonard and Ruppel introduced House Concurrent Resolution 36:

A CONCURRENT RESOLUTION honoring the Whitko High School Art Department.

*Whereas, The Whitko High School Art Department recently competed in the 38<sup>th</sup> World School Children's Art Exhibition in the Republic of China, Taipei;*

*Whereas, The purpose of this annual exhibition is not only to demonstrate and recognize the value of artistic expression in society but also to promote mutual understanding and friendship*

*among today's youth around the globe;*

*Whereas, Whitko High School was one of only 10 schools to represent the United States at this event which featured participants from 47 countries;*

*Whereas, This talented group of Hoosier artists was led by their instructor Walter C. Malicki;*

*Whereas, The group included Yuri Bailey, Sarah Bays, Emily Bidwell, Ann Blanton, Deb Brenneman, Betty Burdeau, Sam Eberly, Kristyn Gerard, Ashley Haegert, Cady Mishler, Amanda Schultz, Brittany Sherry, Michelle Smith, Chris Spears, Andrew Sturgess, and Claire Truman;*

*Whereas, Betty Burdeau and Samantha Eberly were individual medal recipients at this prestigious event;*

*Whereas, The art students of Whitko High School have a long history of success having received 35 national and 115 international awards: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana General Assembly congratulates the Whitko High School Art students for their achievements and expresses great pride at their representation of their school, state and country.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Whitko High School and to Walter C. Malicki in care of Whitko High School.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Dillon.

### **House Concurrent Resolution 37**

Representative V. Smith introduced House Concurrent Resolution 37:

A CONCURRENT RESOLUTION memorializing Dr. Lowell Rose.

*Whereas, Dr. Lowell Rose, a man of passion, eloquence, and intelligence, rendered conscientious and dedicated service to the field of education throughout his tenure as executive director of Phi Delta Kappa (PDK) International from 1971 to 1995 and as director of the PDK/Gallup Poll of the Public's Attitudes Toward the Public Schools; he also wrote extensively about the meaning of this national poll;*

*Whereas, Dr. Lowell Rose was a friend, teacher, role model, and mentor to many educators in Indiana and throughout the nation;*

*Whereas, Dr. Lowell Rose wrote extensively about how the No Child Left Behind Act could be improved and, with the needed improvements, could serve as a catalyst to improve learning for all children;*

*Whereas, Dr. Lowell Rose conducted himself in exemplary fashion, with fairness, integrity, and dignity, and was committed to the democratic process, having strong views about many issues but remaining scrupulously fair to ensure that all points of view were considered and heard;*

*Whereas, Dr. Lowell Rose provided leadership to state educators during his time as a teacher, administrator, superintendent of Kokomo-Center Schools, executive director of the Indiana School Boards Association (ISBA), and consultant for the Indiana Urban Schools Association (IUSA);*

*Whereas, Dr. Lowell Rose demonstrated the courage of his convictions and used his position and status as a consultant to IUSA to draw attention to the many issues facing public education in Indiana and throughout the country;*

*Whereas, As a consultant to IUSA, Dr. Lowell Rose always supported those measures designed to improve the education of the students of Indiana but was also a strong voice against measures which could harm public education; and*

*Whereas, Dr. Lowell Rose made a difference for educators, students, and all Hoosiers; he will be missed by his family and many friends who will remember him and his contributions to education for many years to come: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana General Assembly expresses its sincere appreciation for the valuable services to public education given by Dr. Lowell Rose.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to his wife, Mary, and the Board of Education of Kokomo-Center Schools.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Rogers, Lubbers, and Sipes.

### **House Concurrent Resolution 38**

Representatives Welch and Pierce introduced House Concurrent Resolution 38:

A CONCURRENT RESOLUTION honoring Jeff Rudkin.

*Whereas, The Milken National Educator Award is the nation's largest teacher recognition program;*

*Whereas, This award was developed by the Milken Family Foundation to attract the highest quality kindergarten through 12th grade teachers to the teaching profession and to reward and retain them;*

*Whereas, Forty-two states participate in the Milken National Educator Awards;*

*Whereas, Milken educators are selected by an independent blue ribbon committee appointed by the Department of Education from each of the 42 participating states;*

*Whereas, This selection committee recommends the candidates directly to the Milken Family Foundation; there is no nomination or application procedure involved in this award;*

*Whereas, To be nominated by the selection committee, the candidates must meet the following criteria: possess exceptional educational talent as evidenced by outstanding instructional practices in the classroom, school, and profession; make outstanding educational accomplishments beyond the classroom; have strong long-range potential for professional and policy leadership; and have an engaging and inspiring presence that motivates and impacts students, colleagues, and the community;*

*Whereas, Jeff Rudkin fulfills all these requirements;*

*Whereas, Jeff Rudkin teaches seventh and eighth grade social studies at Lora L. Batchelor Middle School in Bloomington;*

*Whereas, Jeff Rudkin is an innovative teacher whose leading edge techniques have helped his students develop research skills and generate an excitement for learning that will last throughout their lives;*

*Whereas, Jeff Rudkin created and developed an elective video and media production program known as B-TV (Batchelor Television) that allows students to create documentaries, weekly newscasts, public service announcements, and filmed interpretations of classic literature, and his students have received over 100 state, national, and international awards;*

*Whereas, Jeff Rudkin was one of nine teachers selected to be*



*an Indiana University Armstrong Teacher Educator and was selected to teach a session on student media projects at the 2007 National School Board Association Spring Conference;*

*Whereas, In addition to his duties at Lora L. Batchelor Middle School, Jeff Rudkin is a member of the steering committee for the Association for Educational Communications and Technology International Student Media Festival and is on the board of directors for the Community Access Television Services Library Channel; and*

*Whereas, Outstanding teachers such as Jeff Rudkin form the cornerstone of our educational system and should be recognized for the contributions they make toward improving the lives of countless generations of Hoosiers: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the Indiana General Assembly congratulates Jeff Rudkin for winning the Milken National Educator Award and thanks him for all his efforts on behalf of the school children of the state of Indiana.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Jeff Rudkin, Principal Paul White, and Superintendent James Harvey.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Simpson and M. Young.

### **House Concurrent Resolution 39**

Representatives Behning and Elrod introduced House Concurrent Resolution 39:

A CONCURRENT RESOLUTION honoring Dexter Suggs, Sr.

*Whereas, The Milken National Educator Award is the nation's largest teacher recognition program;*

*Whereas, This award was developed by the Milken Family Foundation to attract the highest quality kindergarten through 12th grade teachers to the teaching profession and to reward and retain them;*

*Whereas, Forty-two states participate in the Milken National Educator Awards;*

*Whereas, Milken educators are selected by an independent blue ribbon committee appointed by the Department of Education from each of the 42 participating states;*

*Whereas, This selection committee recommends the candidates directly to the Milken Family Foundation; there is no nomination or application procedure involved in this award;*

*Whereas, To be nominated by the selection committee, the candidates must meet the following criteria: possess exceptional educational talent as evidenced by outstanding instructional practices in the classroom, school, and profession; make outstanding educational accomplishments beyond the classroom; have strong long-range potential for professional and policy leadership; and have an engaging and inspiring presence that motivates and impacts students, colleagues, and the community;*

*Whereas, Dexter Suggs, Sr. fulfills all these requirements;*

*Whereas, Dexter Suggs, Sr. serves as principal of Emma Donnan Middle School #72 in Indianapolis;*

*Whereas, Using the motto "Preparing to Be the Best", Dexter Suggs, Sr. has made academic and disciplinary improvements at Emma Donnan Middle School #72 that will help students live up to their potential and lead them on to bright and promising futures;*

*Whereas, Dexter Suggs, Sr. has worked with community leaders to develop programs for students and staff honoring and encouraging academic excellence and good character;*

*Whereas, Recognizing that motivated and dedicated teachers are the cornerstone of a working educational system, Dexter Suggs, Sr. sends teachers a weekly electronic newsletter highlighting effective instructional strategies and practices;*

*Whereas, During his tenure as principal of Margaret McFarland Middle School #112, Dexter Suggs, Sr. helped increase student achievement on the Indiana Statewide Teaching of Educational Progress (ISTEP+) by 14 percent;*

*Whereas, In addition to his duties at Emma Donnan Middle School #72, Dexter Suggs, Sr. has served on the National School Leader Licensure Consortium and participated in Indiana's Graduation Qualifying Exam assessment committee; and*

*Whereas, Outstanding teachers and administrators such as Dexter Suggs, Sr. form the cornerstone of our educational system and should be recognized for the contributions they make toward improving the lives of countless generations of Hoosiers: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the Indiana General Assembly congratulates Dexter Suggs, Sr. on being given the 2007 Milken National Educator Award and thanks him for all his efforts on behalf of the school children of the state of Indiana.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Dexter Suggs, Sr. and Superintendent Dr. Eugene White.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Delph.

### **House Concurrent Resolution 40**

Representatives Richardson and Stilwell introduced House Concurrent Resolution 40:

A CONCURRENT RESOLUTION to officially proclaim the school years 2008-09 and 2009-10 as "Indiana's Lincoln School Years."

*Whereas, Abraham Lincoln was elected 16<sup>th</sup> President of the United States;*

*Whereas, He grew up from a young boy to a young man in Indiana from 1816 until 1830;*

*Whereas, As a young man in Indiana, he had an insatiable appetite for knowledge, often seen carrying a book everywhere he went, realizing it would be his education that would create opportunities for his future life and unbeknown to him at the time, prepare him for the challenges he would face as President of the United States;*

*Whereas, That during his Presidency a Civil War was waged, of which he prevailed, and the United States was preserved;*

*Whereas, That during his Presidency he signed into law one of the most important public education measures, the Morrill Act, July 2, 1862, which allowed higher education for all citizens. This measure allowed the establishment of Purdue University in West Lafayette, Indiana;*

*Whereas, That during his Presidency he realized the significance of agriculture, and with the stroke of his pen on July 2, 1862, he created the United States Department of Agriculture to serve the country's and the State of Indiana's agriculture interests;*

*Whereas, That during his Presidency he signed the Emancipation Proclamation on January 1, 1863; supported the*

*13<sup>th</sup> Amendment to the Constitution which passed the Senate on April 8, 1864, and the House on January 31, 1865; and on April 11, 1865, became the first American President in history to publicly announce that he favored voting rights for African Americans: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the members of the Indiana General Assembly, do hereby officially proclaim the school years 2008-09 and 2009-10 as "Indiana's Lincoln School Years." We encourage all schools to participate in the Indiana Abraham Lincoln Bicentennial Commission and Indiana Department of Education's program to become an Indiana Abraham Lincoln Bicentennial School, and we encourage all schools to have a school-wide program on February 12, 2009, to celebrate Abraham Lincoln's 200<sup>th</sup> birthday.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the Indiana Abraham Lincoln Bicentennial Commission and to the Indiana Superintendent of Public Instruction.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Kenley.

#### **House Concurrent Resolution 41**

Representatives Burton and Welch introduced House Concurrent Resolution 41:

A CONCURRENT RESOLUTION recognizing the efforts of the Main-1-Media company in designing the In God We Trust license plate for the State of Indiana.

*Whereas, Main-1-Media, a local design firm, served as an outstanding partner to the State of Indiana on the project to create the In God We Trust license plate;*

*Whereas, Rick Terry, Jarrett Horne and Jack Straub of Main-1-Media generously donated their time to the state in developing a number of creative and symbolic options for the license plate design;*

*Whereas, Four final options were posted on the Internet for the public's consideration, and a tremendous outpouring of over 300,000 responses was received to select the winning design;*

*Whereas, The implementation of the In God We Trust plate was a huge success with 1,615,087 plates requested by Hoosiers in 2007, the plate's first year of availability: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana General Assembly expresses its deep gratitude to Main-1-Media for their generosity and their successful design of the In God We Trust license plate.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Main-1-Media.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Steele and Miller.

#### **House Concurrent Resolution 42**

Representatives Knollman, Ruppel, and Micon introduced House Concurrent Resolution 42:

A CONCURRENT RESOLUTION recognizing the FFA.

*Whereas, The FFA is the student organization component of Indiana's total agricultural education program;*

*Whereas, As an intra curricular activity, FFA empowers students to apply the knowledge and competencies gained from classroom laboratory instruction and supervised agricultural experiences;*

*Whereas, The Indiana FFA and agricultural education provide a strong foundation for the youth of Indiana and the future of the food, fiber, and natural resource systems for Hoosiers statewide;*

*Whereas, The Indiana FFA nurtures the next generation of Hoosier agriculturists who will be involved in the leadership of every facet of our food and fiber system, including food safety, research and development, environmental protection, sales and marketing, food production, food processing, international trade, and education;*

*Whereas, The Indiana FFA promotes premier leadership, personal growth, and career success among its members and assists students in discovering the power they possess through the Youth Agriculture Exchange Brazil Experience, the State Agri-Entrepreneurship Awards Program, conferences and workshops, agriculture career development events, chapter retreats, district officer program, leadership career development events, Project: IMPACT, and the state FFA convention;*

*Whereas, The FFA motto, "Learning to do, doing to learn, earning to live, living to serve" gives purpose to students who take an active role in succeeding in agricultural education; and*

*Whereas, The Indiana FFA promotes citizenship, volunteerism, patriotism, and cooperation among its 9,500 active Hoosier members from 185 chapters who join 463,423 national FFA members in the United States: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana General Assembly acknowledges the important work done by the Indiana FFA in furthering the development of our youth into exceptional citizens of our state.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the Indiana FFA.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Jackman and Nugent.

#### **House Concurrent Resolution 43**

Representative Crawford introduced House Concurrent Resolution 43:

A CONCURRENT RESOLUTION honoring WTLC-FM Radio Station.

*Whereas, WTLC-FM became the first full time radio station serving the Indianapolis Black Community in January 1968;*

*Whereas, WTLC-FM has set the standard for entertainment, information and public service programming among the Black/Urban formatted radio stations over the last forty years;*

*Whereas, WTLC-FM has been honored with numerous awards for broadcasting and journalistic excellence, including the Billboard Magazine and Black Radio Exclusive Magazine Station of the Year Award;*

*Whereas, WTLC-FM is well known for years of community and public service, including 1975 and 1976 "Because We Care" Immunization Campaign, 1987's Baby Love for Healthy Babies and 2006's Stop the Violence campaign, along with numerous other efforts;*

*Whereas, WTLC-FM has raised millions of dollars throughout the years for its community philanthropies: such as Mozelle Sanders Thanksgiving dinner, United Negro College Fund, NAACP, Operation PUSH and Martin University;*

*Whereas, WTLC-FM continues its legacy of entertainment, information and service to Indianapolis in its fortieth year of broadcasting; and*

*Whereas, WTLC-FM is the oldest, continuously programmed Black/Urban FM radio station in America: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana General Assembly congratulates and honors WTLC-FM on their forty years of broadcasting in Indianapolis.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to WTLC-FM.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Breaux.

### House Resolution 42

Representative Ripley introduced House Resolution 42:

A HOUSE RESOLUTION to honor the Bellmont High School girls' volleyball team for their state title victory.

*Whereas, The Bellmont High School girls' volleyball team is comprised of a group of talented and hard-working young women who display leadership on and off the court;*

*Whereas, Coach Craig Krull, himself an alumnus of Bellmont High School, has led his team to numerous victories;*

*Whereas, The team had a championship year in 2007 with a record 33 wins and only 5 losses;*

*Whereas, The Bellmont High School girls' volleyball team defeated the #1 ranked Mishawaka Marian High School 3 to 0 to clinch the state title: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana General Assembly congratulates Bellmont High School and the Bellmont High School girls' volleyball team on their state title victory;

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Bellmont High School.

The resolution was read a first time and adopted by voice vote.

The Deputy Speaker Pro Tempore yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

### House Resolution 44

Representatives V. Smith and Elrod introduced House Resolution 44:

A HOUSE RESOLUTION recognizing Shontrai DeVaughn Irving.

*Whereas, Shontrai DeVaughn Irving is no stranger to awards; however, his most recent award holds a very special place in his heart;*

*Whereas, Shontrai DeVaughn Irving was named Indiana Foster Care and Adoption Association Foster Parent of the Year;*

*Whereas, Shontrai DeVaughn Irving has cared for four foster siblings, ages 3 through 9, since October 2006;*

*Whereas, Serving as a Lake County deputy prosecutor, Shontrai DeVaughn Irving witnessed the horrors children can suffer in abusive homes;*

*Whereas, Shontrai DeVaughn Irving prepared himself for his duties as a foster parent by enrolling in foster parenting classes at Villages Foster Care;*

*Whereas, In addition to his devotion to the foster parent program, Shontrai DeVaughn Irving volunteers for the Boys and Girls Club, works to provide food to the hungry, works with Habitat for Humanity, and acts as chairperson of tennis for the Inland Athletic Association; and*

*Whereas, Shontrai DeVaughn Irving offers needy children a safe haven in which to grow and learn and gives them a chance at a brighter future: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana House of Representatives extends it heartfelt congratulations to Shontrai DeVaughn Irving as the recipient of the Indiana Foster Care and Adoption Association Foster Parent of the Year Award and thanks him for his dedication to and compassion for abused and abandoned children.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Shontrai DeVaughn Irving.

The resolution was read a first time and adopted by voice vote.

Representatives Bell and Borders were excused for the rest of the day.

## OTHER BUSINESS ON THE SPEAKER'S TABLE

### MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed, without amendments, Engrossed House Bills 1046 and 1077 and the same are herewith returned to the House.

MARY C. MENDEL  
Principal Secretary of the Senate

### MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed House Bill 1026 with amendments and the same is herewith returned to the House for concurrence.

MARY C. MENDEL  
Principal Secretary of the Senate

### MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolutions 29, 30, 31, 32, 33, 36, 37, 38, 39, 40, 41, 42, and 43 and the same are herewith returned to the House.

MARY C. MENDEL  
Principal Secretary of the Senate

### MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolutions 23, 55, and 58 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL  
Principal Secretary of the Senate

## MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolutions 24, 50, 52, and 53 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL  
Principal Secretary of the Senate

## MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolutions 41, 42, 51, and 57 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL  
Principal Secretary of the Senate

## MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 56 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL  
Principal Secretary of the Senate

## MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Act 156 for signature of the Speaker of the House.

MARY C. MENDEL  
Principal Secretary of the Senate

## HOUSE MOTION

Mr. Speaker: I move that Representative Richardson be added as cosponsor of Senate Concurrent Resolution 53.

TORR

Motion prevailed.

## RESOLUTIONS ON FIRST READING

## Senate Concurrent Resolution 50

The Speaker handed down Senate Concurrent Resolution 50, sponsored by Representative Koch:

A CONCURRENT RESOLUTION honoring World War II Veteran James Lee Hutchinson of Bedford, Indiana.

*Whereas, Between 1944 and 1945, James Lee Hutchinson served with the "Mighty Eighth" Air Force—the most decorated U.S. Army Air Corps Unit during WWII;*

*Whereas, James served as a radio operator and gunner on a lead crew of the B-17 Flying Fortress during eighteen combat missions with the 490<sup>th</sup> Bomb Group of the 8<sup>th</sup> Air Force in England;*

*Whereas, James and his nine fellow crew members joined hundreds of other bombers as they went on numerous missions into the heart of Hitler's Germany. They flew at 25,000 feet, on oxygen, in sub-zero temperatures for hours at a time facing anti-aircraft flak and attacks by Luftwaffe fighters;*

*Whereas, Upon returning from the war at age 20, James attended Indiana University where he majored in history and journalism. He earned a BS in Education in 1949 and then a Masters in Education in 1952. He later returned to school, receiving his Ed.S. in School Administration in 1967;*

*Whereas, James enjoyed a 37 year career in education, where he served as an elementary teacher, principal, and a Special Projects Assistant to the Superintendent of Bedford-North Lawrence Schools;*

*Whereas, James has recounted his WWII experiences in his book "Through These Eyes", which is based on notes from his*

*combat diary and memories of his boyhood in the depression years. The book covers topics ranging from basic training to the Holocaust and the terrible costs of the war;*

*Whereas, A copy of this book has been placed in the Library of Congress as part of Senator Richard Lugar's World War II Veterans' History Project;*

*Whereas, James has been an active member in the Bedford community serving as an ordained elder in the Presbyterian Church, President of the Rotary Club, and a member of the Masonic Lodge for 46 years; and*

*Whereas, James is presently preparing a second book, "WWII Legacies of Freedom" which will include more boyhood experiences and the stories of other Indiana Air Force veterans. In addition, he is working with the Radio Television class at BNL High School to interview WWII veterans so that their stories can be recorded and made available to schools and public libraries for future generations: Therefore,*

*Be it resolved by the Senate  
of the General Assembly of the State of Indiana,  
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly honors James Lee Hutchinson for his service to protect our country in World War II.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Mr. James Hutchinson.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

## Senate Concurrent Resolution 24

The Speaker handed down Senate Concurrent Resolution 24, sponsored by Representatives Porter and Noe:

A CONCURRENT RESOLUTION congratulating the Sertoma Club of Broad Ripple on its 50th anniversary.

*Whereas, SERTOMA, which is an acronym for "SERVICE TO Mankind", is a service organization whose goal is to assist people in need in local communities. The Sertoma Club of Broad Ripple was chartered on March 20, 1958 with 31 members;*

*Whereas, At the outset, the members of the Broad Ripple Sertoma Club selected the Marion County Association for Retarded Children to benefit from its support. This organization, now known as Noble of Indiana, provides a vast number of services and opportunities for more than 2,000 adults and children with developmental disabilities. Since it began supporting Noble, the club has contributed over \$1.5 million;*

*Whereas, In 1991, the club added the Cranial-Facial Department of Riley Hospital for Children as its second major sponsorship. Funds provided have been used to purchase specialized equipment for use in performing facial surgeries on children;*

*Whereas, Each year the club's members donate their own money to the Sertoma Foundation's annual fund drive. During this event, the Sertoma Club of Broad Ripple has consistently contributed the most money out of all of the clubs in the entire Sertoma organization;*

*Whereas, Over the past 50 years, the Sertoma Club of Broad Ripple has provided over \$2 million in support to Noble of Indiana, Riley Hospital, and countless other organizations;*

*Whereas, The club's recent honors include the Development of the Arc Award, Noble of Indiana's President's Award, and Outstanding Civic Organization in Indiana; and*

*Whereas, With a membership of 115, the Broad Ripple Sertoma Club has earned its reputation as one of the largest and most successful clubs in Sertoma history by contributing both*

money and time to the needs of people in the Indianapolis community year after year: Therefore,

*Be it resolved by the Senate  
of the General Assembly of the State of Indiana,  
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly hereby congratulates the Sertoma Club of Broad Ripple on its 50<sup>th</sup> anniversary.

SECTION 2. The Secretary of Senate is hereby directed to transmit a copy of this resolution to the Sertoma Club of Broad Ripple.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

### **Senate Concurrent Resolution 53**

The Speaker handed down Senate Concurrent Resolution 53, sponsored by Representatives Torr and Richardson:

A CONCURRENT RESOLUTION recognizing St. Theodore Guerin High School for being named a 2007 Catholic High School Honor Roll award recipient.

*Whereas, The Acton Institute implemented the Catholic High School Honor Roll award program in 2004. The purpose of the award is to recognize and encourage excellence in Catholic secondary education by honoring schools that excel in academic excellence, Catholic identity, and civic education;*

*Whereas, All of the approximately 1,300 Catholic High Schools in the nation are eligible to apply for the Catholic High School Honor Roll award. The Acton Institute recognizes the top 50 schools each year;*

*Whereas, St. Theodore Guerin High School was selected as one of the 2007 recipients of the Catholic High School Honor Roll award and was listed in the top 25 in the civic education category;*

*Whereas, St. Theodore Guerin High School, which opened in 2004, was among eleven new schools to receive the Catholic High School Honor Roll recognition in 2007. It is the first Indianapolis-area Catholic high school to earn this distinction and was one of only sixteen recipients nationwide that are open enrollment schools; and*

*Whereas, Since opening in 2004, St. Theodore Guerin High School has shown a commitment to preparing students to be leaders through academics and forming students in the Catholic faith. We wish them continued success: Therefore,*

*Be it resolved by the Senate  
of the General Assembly of the State of Indiana,  
the House of Representatives concurring:*

SECTION 1. That the Indiana State Senate congratulates St. Theodore Guerin High School on receiving the 2007 Catholic High School Honor Roll award.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to President, Father Ted Rothrock and Principal, Rick Wagner.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

### **Senate Concurrent Resolution 52**

The Speaker handed down Senate Concurrent Resolution 52, sponsored by Representative Tyler:

A CONCURRENT RESOLUTION honoring Muncie Police Department Sergeant Tony Calvert for his outstanding police work which led to the apprehension and conviction of a sexual predator who abducted a 15-year-old girl from Muncie.

*Whereas, Sergeant Tony Calvert has been with the Muncie Police Department since 1991 where he started out as a patrolman;*

*Whereas, Sergeant Tony Calvert, an investigator at that time, was assigned to a case of a 15-year-old girl who was abducted;*

*Whereas, Sergeant Tony Calvert worked around the clock and worked relentlessly on the case, keeping in touch with the girl's family, giving them as much information as possible;*

*Whereas, Sergeant Tony Calvert successfully pieced together the abductor's identity and chain of events that led to his arrest and conviction for kidnapping and sexual assault; and*

*Whereas, Sergeant Tony Calvert's determination and hard work reunited the girl with her family within one week's time: Therefore,*

*Be it resolved by the Senate  
of the General Assembly of the State of Indiana,  
the House of Representatives concurring:*

SECTION 1. The Indiana General Assembly honors Sergeant Tony Calvert for his outstanding police work which led to the apprehension of a sexual predator in just one week's time.

SECTION 2. That the Secretary of the Senate is directed to transmit a copy of this resolution to Sergeant Tony Calvert and Johnny and Sherry Reason.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

### **House Concurrent Resolution 28**

Representatives Frizzell and M. Smith introduced House Concurrent Resolution 28:

A CONCURRENT RESOLUTION to recognize the annual "Victory Days" event.

*Whereas, The State of Indiana is fortunate to host the annual "Victory Days" living history museum and event which is designed to honor, preserve, and perpetuate the memory and sacrifices made by many Americans during World War II;*

*Whereas, The era of the 1940s is recreated at the Columbus Municipal Airport, where guests can step back in time to experience an authentic re-enactment of both military and civilian life;*

*Whereas, The Columbus Municipal Airport is the perfect home to this event, as its very airfields were opened in 1943 as the Atterbury Air Force Base. The base served as a training field for medium-sized bombers and gliders and throughout World War II, was used as a landing field for military planes bringing wounded soldiers to Wakeman Hospital Center at the Army's Camp Atterbury. The base continued to play an active role in the Korean and Vietnam wars before being deeded to the City of Columbus;*

*Whereas, Education is the focus of the event, and specific programs are offered for elementary, middle, and high school students to learn about this historic period of time;*

*Whereas, In addition to engaging with the hundreds of authentic re-enactors, guests can view a vast collection of military and civilian aircraft, classic automobiles, equipment, farm implements and even a steam locomotive powered train which is available to transport guests between Indianapolis and Columbus;*

*Whereas, Guests can enjoy event activities such as viewing a parade recreating a 1943 War Bonds rally, participating as a live audience member for a 1940s vintage radio program, dancing to the sounds of big band during a USO Dance, or catch a viewing of "Casablanca";*

*Whereas, the Victory Days celebration will next be held*

*October 3, 4, and 5 at the Columbus Municipal Airport with Habitat for Humanity being designated at this year's sole beneficiary of proceeds collected;*

*Whereas, this event offers a unique window into our nation's "greatest generation" and is a coveted attraction for countless Hoosiers and out-of-state guests: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana General Assembly is proud to recognize "Victory Days" and appreciates all the hard work that goes into this annual educational and charitable event.

SECTION 2. That the Principal Clerk of the House of Representatives submit a copy of this resolution to the "Victory Days" organization and to the City of Columbus.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Walker and Waltz.

## **ENGROSSED SENATE BILLS ON THIRD READING**

### **Engrossed Senate Bill 133**

Representative Klinker called down Engrossed Senate Bill 133 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Representative Buell was excused from voting, pursuant to House Rule 46. Roll Call 186: yeas 87, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### **Engrossed Senate Bill 159**

Representative Hoy called down Engrossed Senate Bill 159 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 187: yeas 92, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### **Engrossed Senate Bill 190**

Representative GiaQuinta called down Engrossed Senate Bill 190 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 188: yeas 92, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### **Engrossed Senate Bill 219**

Representative Welch called down Engrossed Senate Bill 219 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning

labor and safety.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 189: yeas 90, nays 3. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### **Engrossed Senate Bill 233**

Representative Welch called down Engrossed Senate Bill 233 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 190: yeas 80, nays 11. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### **Engrossed Senate Bill 241**

Representative Tincher called down Engrossed Senate Bill 241 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 191: yeas 93, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

With consent of the members, the Speaker returned to bills on second reading.

## **ENGROSSED SENATE BILLS ON SECOND READING**

### **Engrossed Senate Bill 10**

Representative L. Lawson called down Engrossed Senate Bill 10 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### **Engrossed Senate Bill 26**

Pursuant to House Rule 143, the sponsor of Engrossed Senate Bill 26, Representative L. Lawson, granted consent to the cosponsor, Representative Knollman, to call the bill down for second reading. Representative Knollman called down Engrossed Senate Bill 26 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### **Engrossed Senate Bill 31**

Representative Dembowski called down Engrossed Senate Bill 31 for second reading. The bill was read a second time by title.

#### **HOUSE MOTION (Amendment 31-1)**

Mr. Speaker: I move that Engrossed Senate Bill 31 be amended to read as follows:

Page 2, line 2, delete "map." and insert "map prepared under subsection (c)."

Page 3, after line 30, begin a new paragraph and insert:

"(k) At the same time and in the same manner as the notice

is sent under subsection (d)(2), the department shall notify the owner of property to be acquired for a right-of-way of the following:

(1) With respect to damage that occurs to the property as a result of the acquisition of the property for a right-of-way, including entry onto the land for a purpose set forth in IC 8-23-7-6:

(A) a description of the owner's right to compensation for the damage from the department; and

(B) the procedure that the owner must follow to obtain the compensation.

(2) The name, mailing address, and telephone number of an individual or office within the department to which the owner may direct questions concerning the rights and procedures described in subdivision (1).

SECTION 2. IC 8-23-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The department shall give written notice to the owners of property described in section 4 of this chapter that the department intends to acquire the real property or rights for highway purposes. The notice may be served in person or sent by certified mail to the owners of the property at the address shown on the tax records of the county. **Notice under this section must contain the following information:**

(1) With respect to damage that occurs to the owner's property as a result of the acquisition of the property for highway purposes, including entry upon, over, or under the property as set forth in section 26 of this chapter:

(A) a description of the property owner's right to compensation for the damage from the department; and

(B) the procedure that the owner must follow to obtain the compensation.

(2) The name, mailing address, and telephone number of an individual or office within the department to which an owner may direct questions concerning the rights and procedures described in subdivision (1).

SECTION 3. IC 8-23-7-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 26. An authorized employee or representative of the department engaged in a survey or investigation authorized by the commissioner or the commissioner's designee, **including a survey or investigation for purposes of IC 8-23-5-9**, may enter upon, over, or under any land or property within Indiana to conduct the survey or investigation by manual or mechanical means, which include the following:

- (1) Inspecting.
- (2) Measuring.
- (3) Leveling.
- (4) Boring.
- (5) Trenching.
- (6) Sample-taking.
- (7) Archeological digging.
- (8) Investigating soil and foundation.
- (9) Transporting equipment.
- (10) Any other work necessary to carry out the survey or investigation.

SECTION 4. IC 8-23-7-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. (a) Before an authorized employee or representative of the department enters upon, over, or under any land or water under section 26 of this chapter, the occupant of the land or water shall be notified in writing by first class United States mail of the entry not later than five (5) days before the date of entry. The employee or representative of the department shall present written identification or authorization to the occupant of the land or water before entering the land or water.

(b) At the same time and in the same manner as the notice

required under subsection (a), the department shall notify the occupant and the record owner of the land or property of the following:

(1) With respect to damage that occurs to the land or property as a result of the acquisition of the land or property for highway purposes, including entry upon, over, or under the land or property as set forth in section 26 of this chapter:

(A) a description of the aggrieved party's right to compensation for the damage from the department; and

(B) the procedure that the aggrieved party must follow to obtain the compensation.

(2) The name, mailing address, and telephone number of an individual or office within the department to which an aggrieved party may direct questions concerning the rights and procedures described in subdivision (1).

SECTION 5. IC 8-23-7-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 28. If during an entry under section 26 of this chapter damage occurs to the land or water as a result of the entry or work performed during the entry, the department shall compensate the aggrieved party. If the aggrieved party is not satisfied with the compensation determined by the department, the amount of damages shall be assessed by the county agricultural extension educator of the county in which the land or water is located and two (2) disinterested residents of the county, one (1) appointed by the aggrieved party and one (1) appointed by the department. A written report of the assessment of damages shall be mailed to the aggrieved party and the department by first class United States mail. If either the department or the aggrieved party is not satisfied with the assessment of damages, either or both may file a petition, not later than fifteen (15) days after receiving the report, in the circuit or superior court of the county in which the land or water is located. **The department shall pay any compensation awarded to an aggrieved party under this section:**

(1) not more than thirty (30) days after the date on which the parties agree to the amount of the compensation; or

(2) as ordered by the circuit or superior court."

Renumber all SECTIONS consecutively.

(Reference is to ESB 31 as printed February 15, 2008.)

WALORSKI

Motion prevailed. The bill was ordered engrossed.

#### Engrossed Senate Bill 46

Representative Dvorak called down Engrossed Senate Bill 46 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

#### Engrossed Senate Bill 62

Representative Dembowski called down Engrossed Senate Bill 62 for second reading. The bill was read a second time by title.

#### HOUSE MOTION

(Amendment 62-1)

Mr. Speaker: I move that Engrossed Senate Bill 62 be amended to read as follows:

Page 2, line 19, reset in roman "a daily or weekly newspaper of general circulation."

Page 2, line 19, delete "two daily or".

Page 2, delete lines 20 through 22.

Page 2, line 23, delete "newspaper alone is sufficient."

Page 2, line 25, after "one" insert "(1)".

(Reference is to ESB 62 as printed February 15, 2008.)

FOLEY

The Speaker ordered a division of the House and appointed

Representatives Stilwell and Bosma to count the yeas and nays. Yeas 43, nays 44. Motion failed.

HOUSE MOTION  
(Amendment 62-2)

Mr. Speaker: I move that Engrossed Senate Bill 62 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 24-9-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

**Chapter 4.5. Residential Real Estate Closings**

**Sec. 1.** This chapter applies to a home loan closing that takes place after June 30, 2008.

**Sec. 2.** As used in this chapter, "closing documents" refers to the documents that a settlement service provider is required to provide to a borrower at or before the closing of a home loan, in accordance with the requirements of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.), as amended.

**Sec. 3. (a)** As used in this chapter, "settlement service provider" means a person that provides services in connection with the closing of a real estate transaction, including the provision of title examinations or title insurance.

**(b)** The term includes a closing agent (as defined in IC 6-1.1-12-43(a)(2)).

**Sec. 4.** A creditor shall provide a prospective borrower with a notice that states that the prospective borrower has a right to receive, at least forty-eight (48) hours before the closing of a home loan, the closing documents with respect to the home loan. The creditor shall provide the notice required by this section at the same time that the creditor provides the good faith estimates required under the federal Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.), as amended.

**Sec. 5. (a)** Subject to subsection (b), not later than forty-eight (48) hours before the closing of a home loan, a settlement service provider shall make available to the borrower the closing documents with respect to the home loan. The settlement service provider shall make the closing documents available to the borrower:

- (1) at the office of the creditor or the settlement service provider;
- (2) through the United States mail;
- (3) by facsimile; or
- (4) through any other commercially reasonable means.

**(b)** A borrower may waive the right to receive the closing documents with respect to a home loan by providing a written notice of waiver to the settlement service provider at or before the time of closing.

**(c)** If the terms of the home loan set forth in the closing documents made available to the borrower under subsection (a) differ from the terms of the home loan presented to the borrower at the time of the closing, the borrower is entitled to delay or reschedule the closing without penalty and without forfeiting the right to enter into the loan or, in the case of a purchase money home loan, into the purchase contract. For purposes of this subsection, "terms", with respect to a home loan, includes any of the following:

- (1) The total loan amount.
- (2) The loan's rate, including the trigger rate.
- (3) Points and fees.
- (4) Payment amounts and schedules.
- (5) The term or duration of the loan.
- (6) Prepayment penalties, if any.
- (7) Acceleration provisions.
- (8) Servicing of the loan.

**(9) Other provisions concerning the rights and responsibilities of the parties to the home loan.**

**Sec. 6. (a)** A settlement service provider is subject to a civil penalty of twenty-five dollars (\$25) for each instance in which the settlement service provider fails to:

- (1) provide a prospective borrower with the notice required by section 4 of this chapter; or
- (2) make closing documents available to a borrower as required by section 5 of this chapter, unless the borrower has waived the borrower's right to receive the closing documents under section 5(b) of this chapter.

**(b)** A penalty described in subsection (a):

- (1) may be enforced by the state agency that has administrative jurisdiction over the settlement service provider in the same manner that the agency enforces the payment of fees or other penalties payable to the agency; and
- (2) shall be paid into the property tax replacement fund.

**(c)** A settlement service provider is not liable for any other damages claimed by a customer because of the closing agent's failure to comply with this chapter."

Page 2, line 19, after "two" insert "(2)".

Page 2, line 21, delete "property".

Page 2, line 22, delete "then".

Page 2, line 23, delete "will be" and insert "is".

Page 2, line 24, delete "no" and insert "not".

Page 2, line 25, after "one" insert "(1)".

Renumber all SECTIONS consecutively.

(Reference is to ESB 62 as printed February 15, 2008.)

MURPHY

Upon request of Representatives Murphy and Dembowski, the Speaker ordered the roll of the House to be called. Representative Espich was excused from voting, pursuant to House Rule 46. Roll Call 192: yeas 73, nays 15. Motion prevailed. The bill was ordered engrossed.

**Engrossed Senate Bill 91**

Representative Avery called down Engrossed Senate Bill 91 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**Engrossed Senate Bill 123**

Representative Battles called down Engrossed Senate Bill 123 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 123-1)

Mr. Speaker: I move that Engrossed Senate Bill 123 be amended to read as follows:

Page 1, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 2. IC 15-3-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The following definitions apply throughout this chapter:

- (1) "Fertilizer material" means any substance containing nitrogen, phosphate, potash, or any recognized plant nutrient that is used for its plant nutrient content and that is designed to have value in promoting plant growth. The term includes unmanipulated animal and vegetable manures.
- (2) "Mixed fertilizer" means any combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth.
- (3) "Commercial fertilizer" includes mixed fertilizer or fertilizer materials, except nonprocessed manure, marl, lime, wood ashes, and plaster.
- (4) "Brand" means a term, design, or trademark used in



connection with one (1) or several grades of fertilizer.

(5) "Grade" means the minimum percentage of total nitrogen, available phosphate ( $P_2O_5$ ), and soluble potash ( $K_2O$ ) stated in the order given in this definition.

(6) "Official sample" means any sample of commercial fertilizer taken by the state chemist or the state chemist's agent.

(7) "Ton" means a net weight of two thousand (2,000) pounds avoirdupois.

(8) "Percent" or "percentage" means the percentage by weight.

(9) "Person" includes an individual, partnership, association, firm, limited liability company, and corporation.

(10) "Distributor" means a person who offers for sale, sells, barter, or otherwise supplies commercial fertilizers.

(11) "Sell" or "sale" includes exchange.

(12) "Specialty fertilizer" means a fertilizer distributed for nonfarm use.

(13) "Bulk fertilizer" means a fertilizer distributed in nonpackaged form.

(14) "Registrant" means a person who registers fertilizer under this chapter.

(15) "Storage" means storage of bulk fertilizer by a person who manufactures or distributes bulk fertilizer or stores bulk fertilizer for personal use.

(16) "Board" means the Indiana fertilizer advisory board.

(17) "Blender" means a person ~~who is or system~~ engaged in the business of blending fertilizer materials.

(18) "Blending" means the physical mixing or combining of: ~~two (2) or more fertilizer materials; including the mixing, through the simultaneous application of two (2) or more fertilizer materials;~~

**(A) one (1) or more fertilizer materials and one (1) or more filler materials;**

**(B) two (2) or more fertilizer materials; or**

**(C) two (2) or more fertilizer materials and filler materials;**

**including mixing through the simultaneous or sequential application of any of the combinations referred to in clause (A), (B), or (C) to produce a uniform mixture.**

(19) "Custom blend" means a fertilizer blended according to specifications provided to a blender in a soil test nutrient recommendation or to meet specific ~~requests of a consumer requirements (who is the end user)~~ before blending.

(20) "Use" means the ~~process of placing placement or usage of commercial fertilizer to promote plant growth on a targeted growing area.~~

**(21) "Ammonium nitrate" means the ammonium salt of nitric acid, which must contain not less than thirty-three percent (33%) nitrogen, fifty percent (50%) of which is in the ammonium form and fifty percent (50%) of which is in the nitrate form.**

SECTION 3. IC 15-3-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Before distribution in Indiana, each brand and grade of commercial fertilizer shall be registered in the name of the person whose name appears on the label. The application for registration shall be submitted to the state chemist on a form furnished by the state chemist and shall be accompanied by a fee of twenty dollars (\$20) for each grade of each brand. Fertilizers sold in packages of twelve (12) pounds or less shall be registered for a fee of fifty dollars (\$50) for each grade of each brand. Upon approval by the state chemist, a copy of the registration shall be furnished to the applicant. All registrations expire on June 30 each year.

(b) In addition to the appropriate filing fee set forth in subsection (a), a late filing fee equal to one hundred percent

(100%) of the appropriate filing fee shall be assessed:

(1) for an application to renew the registration of a commercial fertilizer under this section that is received after July 31; or

(2) on a product that must be registered under this section before distribution in Indiana but is found to be in distribution before registration.

(c) The application shall include the following information:

(1) The name and address of the registrant.

(2) The brand and grade.

(3) The guaranteed analysis showing the minimum percentage of plant food claimed in the following order and form:

Total Nitrogen (N) percent

Available Phosphate ( $P_2O_5$ ) percent

Soluble Potash ( $K_2O$ ) percent

When applied to mixed fertilizers, grade shall be given in whole numbers only. However, the state chemist may permit fractional numbers to be used for specialty fertilizers or when additional plant food elements or other additives are added. Unacidulated mineral phosphatic materials and basic slag shall be guaranteed as to both total and available phosphate and the degree of fineness. In the case of bone, tankage, and other natural organic phosphate materials, only the total phosphate need be guaranteed. Additional plant food elements or other additives, determinable by chemical methods, may be guaranteed only by permission of the state chemist who shall grant such permission only if the state chemist determines that the granting of such permission would not constitute a misrepresentation and is correct with the advice of the dean of agriculture of Purdue University or the dean's designee. When any such additional plant foods are claimed, ~~they~~ **the plant foods** shall be included in the guarantee in the form of the element and shall be subject to inspection and analysis in accordance with the methods that may be prescribed by the state chemist.

(d) A distributor is not required to register a brand of commercial fertilizer that is registered under this chapter by another person if the label used by the distributor does not differ in any respect from that used by the registrant.

(e) A distributor who acts as a blender is not required under subsection (a) to register a custom blend that the distributor produces if the fertilizer materials blended together to produce the custom blend are registered under subsection (a). However, a distributor who acts as a blender shall provide the state chemist with the following information about each custom blend that the distributor produces:

(1) The name and address of the distributor.

(2) The brand and grade of the custom blend.

(3) The guaranteed analysis of the custom blend showing the minimum percentage of plant food claimed in the following order and form:

(A) The percent of total nitrogen (N).

(B) The percent of available phosphate ( $P_2O_5$ ).

(C) The percent of soluble potash ( $K_2O$ ).

SECTION 4. IC 15-3-3-15.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15.5. (a) If a person violates this chapter or a rule adopted under this chapter, the state chemist may:**

**(1) warn or issue a citation to the person; or**

**(2) deny, suspend, revoke, or amend the person's registration under this chapter.**

**(b) A person who knowingly or intentionally violates this chapter commits a Class A misdemeanor.**

SECTION 5. IC 15-3-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) The Indiana fertilizer advisory board is established to study the regulation of fertilizer and to advise the state chemist on the administration of this chapter.

(b) The board consists of the following members:

- (1) Two (2) representatives of the retail fertilizer industry.
- (2) One (1) representative of fertilizer manufacturing, distributing, or manufacturing and distributing.
- (3) Two (2) representatives of producers of agricultural crops.
- (4) One (1) representative of the lawn care industry.
- (5) One (1) representative of the Purdue School of Agriculture.
- (6) One (1) representative of a public conservation organization.
- (7) One (1) representative of the livestock industry.**
- ~~(7)~~ **(8) The president of the Indiana Plant Food and Agricultural Chemicals Association, who shall serve as a nonvoting member.**
- ~~(8)~~ **(9) One (1) representative of the department of environmental management, who shall serve as a nonvoting member.**
- ~~(9)~~ **(10) The fertilizer administrator for the office of the state chemist, who shall serve as a nonvoting member.**
- ~~(10)~~ **(11) The engineer specialist for the office of the state chemist, who shall serve as a nonvoting member.**
- (12) One (1) representative of the department of agriculture, who shall serve as a nonvoting member.**

(c) The voting members of the board shall be appointed by the state chemist for terms of four (4) years.

(d) Voting members of the board may be appointed for successive terms at the discretion of the state chemist.

(e) The state chemist may remove a voting member of the board for cause before the expiration of the member's term.

(f) Vacancies created by the death, resignation, or removal for cause of a member of the board must be filled in the manner prescribed for appointment to that board position. Vacancies must be filled within thirty (30) days of the death, resignation, or removal for cause.

(g) The board shall elect one (1) of its voting members chairperson to serve for a term of two (2) years, unless the chairperson's appointment expires before the expiration of the term, in which case the term is for the duration of the chairperson's appointment.

(h) The board may meet at times specified by the chairperson or by a majority of the board, but shall not meet less than annually.

(i) Five (5) voting members of the board constitutes a quorum. Official actions require a majority of the voting members. The chairperson may actively participate in all decisions of the board.

(j) Each member of the board who is not a state employee is entitled to receive both of the following:

- (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).
- (2) Reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Each member of the board who is a state employee is entitled to reimbursement for travel expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(k) The board shall invite nonvoting members to serve at the pleasure of the board.

SECTION 6. IC 15-3-3.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter, unless otherwise provided:

(1) The term "active ingredient" means:

- (A) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient that will:

- (i) prevent;
- (ii) destroy;
- (iii) repel; or
- (iv) mitigate;

insects, nematodes, fungi, rodents, weeds, or other pests; (B) in the case of a plant regulator, an ingredient that, through physiological action, will accelerate or retard the rate of growth or rate of maturation or ~~otherwise~~ alter the behavior of:

- (i) ornamental or crop plants; or
- (ii) the produce of ornamental or crop plants;

(C) in the case of a defoliant, an ingredient that will cause the leaves or foliage to drop from a plant; ~~and~~

(D) in the case of a desiccant, an ingredient that will artificially accelerate the drying of plant tissue; ~~and~~

**(E) in the case of a nitrogen stabilizer, an ingredient that will prevent or hinder the process of nitrification, denitrification, ammonia volatilization, or urease production through an action affecting soil bacteria.**

(2) The term "adulterated" means a pesticide that has its strength or purity fall below the professed standard or quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in part for the pesticide product or if any valuable constituent of the pesticide product has been wholly or in part abstracted.

(3) The term "antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment.

(4) The term "board" means the Indiana pesticide review board created by this chapter to collect, analyze, and interpret information on matters relating to the use of pesticides.

(5) The term "defoliant" means any substance or mixture of substances intended to cause leaves or foliage to drop from a plant with or without causing abscission.

(6) The term "desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissues.

(7) The term "device" means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents or destroying, repelling, or mitigating fungi, weeds, nematodes, or other pests as may be designated by the board. The term does not include:

- (A) equipment used for the application of pesticides when sold separately from the pesticides;
- (B) firearms; or
- (C) simple mechanical devices, such as barriers, traps, or adhesives, or other simple contrivances that are not subject to this chapter as determined by the pesticide review board.

(8) The term "distribute" means to offer for sale, sell, exchange, barter or otherwise supply or offer to supply pesticide products.

(9) The term "fungi" means all non-chlorophyll-bearing thallophytes (all non-chlorophyll-bearing plants of a lower order than mosses and liverworts), including rusts, smuts, mildews, molds, yeasts, bacteria, and viruses, except those on or in living man or other animals.

(10) The term "fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi.

(11) The term "herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed.

(12) The term "highly volatile herbicide" means those herbicides that the board has determined to be capable of emitting vapors that may cause serious injury to desired plants by reason of movement of the vapors from the area

of application of the herbicide to areas inhabited by the desired plants.

(13) The term "inert ingredient" means an ingredient that is not an active ingredient.

(14) The term "ingredient statement" means ~~either~~ **either of the following:**

(A) A statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide. ~~or~~

(B) A statement of the name of each active ingredient in decreasing order of abundance and the total percentage of active ingredients, together with the name of each and total percentage of the inert ingredients, if any, in the pesticide. ~~except clause (A) shall apply if the preparation is highly toxic to man; determined under section 10 of this chapter; and~~

~~in addition to clause (A) and clause (B); if a pesticide contains arsenic in any form; a statement of the percentages of total and water soluble arsenic; each calculated as elemental arsenic.~~

(15) The term "insect" means any small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six (6) legged, usually winged forms, including beetles, bugs, bees, flies, and other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, including spiders, mites, ticks, centipedes, and wood lice.

(16) The term "insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects that may be present in any environment.

(17) The term "label" means the written, printed, or graphic matter on, or attached to, a pesticide product or the immediate container of the pesticide product, and any outside container or wrapper of the retail package of the pesticide product.

(18) The term "labeling" means all labels and other written, printed, or graphic matter:

(A) upon the pesticide product or any of its containers or wrappers;

(B) accompanying the pesticide product at any time; or  
(C) to which reference is made on the label or in literature accompanying the pesticide product, except when accurate, nonmisleading reference is made to current official publications of:

(i) the United States ~~Departments~~ **Department** of Agriculture; ~~or~~

(ii) the United States **Department** of Interior;

(iii) the United States ~~Public~~ **Department** of Health Service; and Human Services;

(iv) the United States **Environmental Protection Agency**;

(v) state experiment stations;

(vi) state agricultural colleges; or

(vii) other similar federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of pesticides.

(19) The term "misbranded" means:

(A) any pesticide product if its labeling bears any statement, design, or graphic representation relative to the pesticide product or to its ingredients that is false or misleading;

(B) any pesticide product:

(i) if it is an imitation of or is offered for sale under the name of another pesticide product;

(ii) if its labeling bears any reference to registration under this chapter;

(iii) if the labeling accompanying it does not contain

instructions for use that are necessary and, if complied with, adequate for the protection of the public;

(iv) if the label does not contain a warning or caution statement that may be necessary and, if complied with, adequate to prevent injury to living man and other vertebrate animals;

(v) if the label does not bear an ingredient statement on that part of the immediate container and on any outside container or wrapper through which the ingredient statement on the immediate container cannot be clearly read, of the retail package that is presented or displayed under customary conditions of purchase. However, a pesticide product is not misbranded under this definition if the size or form of the immediate container, or the outside container or wrapper of the retail package, makes it impracticable to place the ingredient statement on the part that is presented or displayed under customary conditions of purchase and the ingredient statement appears prominently on another part of the immediate container, or outside container or wrapping, or labeling, as permitted by the state chemist;

(vi) if any word, statement, or other information required under this chapter or the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) to appear on the labeling is not prominently placed on the labeling with conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in terms as to render it likely to be read and understood by the average individual under customary conditions of purchase and use;

(vii) if in the case of an insecticide, nematocide, fungicide, or herbicide, when used as directed or in accordance with commonly recognized practice, it shall be injurious to living man or other vertebrate animals or vegetation, except weeds, to which it is applied, or to the person applying the pesticide;

(viii) in the case of a plant regulator, defoliant, or desiccant when used as directed it shall be injurious to living man or other vertebrate animals, or vegetation to which it is applied, or to the person applying the pesticide. However, physical or physiological effects on plants or parts of plants shall not be deemed to be injurious, when this is the purpose for which the plant regulator, defoliant, or desiccant was applied, in accordance with the label claims and recommendations; or

(ix) if the immediate container does not clearly display the United States Environmental Protection Agency establishment number indicating the specific location where the pesticide product was produced.

(20) The term "nematocide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating nematodes.

(21) The term "nematode" means the invertebrate animals of the phylum nemathelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts also called nemas or eelworms.

(22) The term "person" means any individual, partnership, association, fiduciary, corporation, or organized group of persons whether incorporated or not.

(23) The term "pesticide" means:

(A) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating a pest; and

(B) any substance or mixture of substances intended for

use as a plant regulator, defoliant, or desiccant.

(24) The term "pesticides for use by prescription only" means any pesticide that the board has found to be more hazardous by one (1) criterion or another than a restricted use pesticide so that any specific use and application shall be determined and prescribed by a qualified pest management specialist approved by the state chemist.

(25) The term "plant regulator" means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce of ornamental or crop plants, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

(26) The term "registrant" means the person registering any pesticide product under this chapter.

(27) The term "restricted use pesticide" means any pesticide classified as a restricted use pesticide by the administrator of the United States Environmental Protection Agency or a pesticide that the board has determined to be unduly hazardous to persons, animals, plants, wildlife, waters, or lands, other than the pests it is intended to prevent, destroy, control, or mitigate.

(28) The term "rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal that the board shall declare to be a pest.

(29) The term "weed" means any plant that grows where the plant is not wanted.

(30) The term "aquatic ecologist" means a scientist with a degree in, or extensive training in, or experience in at least one (1) of the following:

- (A) Aquatic ecology.
- (B) Limnology.
- (C) Invertebrate zoology.
- (D) Invertebrate ecology.
- (E) Ichthyology.
- (F) Aquatic botany.
- (G) Algology.
- (H) Primary production ecology.

(31) The term "terrestrial ecologist" means a scientist with a degree in, or extensive training in, or experience in at least one (1) of the following:

- (A) Animal ecology.
- (B) Plant ecology.
- (C) Vertebrate natural history.
- (D) Herpetology.
- (E) Ornithology.
- (F) Mammalogy.
- (G) Field zoology.

(32) The term "bulk pesticides" means any pesticide or mixture of pesticides that is transported or held in an immediate reusable container in undivided quantities greater than one hundred (100) pounds net dry weight or fifty-five (55) U.S. gallons liquid measure. The term does not include pesticides that are in the custody of the ultimate user and have been prepared for application by the ultimate user to use in dilution formula strength.

(33) "Final printed labeling" means the printed label and other labeling that will appear on or accompany a pesticide product.

(34) "Front panel" means the part of a label that is visible to a purchaser under normal conditions of sales displays.

(35) "Immediate container" means that part of a container that is in direct contact with a pesticide product.

(36) "Pest" has the meaning set forth in IC 15-3-3.6-2(22).

(37) "Pesticide formulation" means a pesticide product

comprised of all active ingredients and inert ingredients.

(38) "Pesticide product" means a pesticide or device offered for distribution or use, including any labeling.

(39) "Produce" means to manufacture, prepare, compound, process, or change the container of a pesticide product or an active ingredient. The term does not include the dilution by individuals of formulated pesticides for the individual's use done according to the directions on a label.

(40) "Wildlife" has the meaning set forth in IC 15-3-3.6-2(29).

SECTION 7. IC 15-3-3.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. ~~It is unlawful for any~~ **Except as provided in section 4 of this chapter, a person to may not** produce, distribute, display, sell, or offer for sale within ~~this state~~ **Indiana** or deliver for transportation or transport in intrastate commerce or between points within ~~this state~~ **Indiana** through any point outside ~~this state~~ **Indiana** any of the following:

(1) Any pesticide product that has not been registered under section 5 of this chapter.

(2) Any pesticide product if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration.

(3) A pesticide product if the composition of the product differs from the composition as represented in connection with its registration. However, at the discretion of the state chemist, a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product.

(4) Any pesticide (except a bulk pesticide or a pesticide in a container **specifically** designed and constructed to accommodate the return and refill of ~~greater than fifty-five (55) gallons liquid or one hundred (100) pounds of dry material~~) **the container** unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to that container, and to any outside container or wrapper of the retail package through which the required information on the immediate container cannot be clearly read, a label bearing:

(A) the name and address of the manufacturer, registrant, or person for whom manufactured;

(B) the name, brand, or trademark under which the pesticide product is sold; and

(C) the net weight or measure of the content, subject, however, to reasonable variations as the state chemist may permit.

~~(5) The pesticides commonly known as standard lead arsenate; basic lead arsenate; calcium arsenate; magnesium arsenate; zinc arsenate; zinc arsenite; sodium fluoride; sodium fluosilicate; and barium fluosilicate unless they have been distinctly colored or discolored as provided by rules adopted under this chapter; or any other white powder pesticide that the state chemist, after investigation of and after public hearing on the necessity for action for the protection of the public health and the feasibility of coloration or discoloration; shall, by rule, require to be distinctly colored or discolored unless it has been so colored or discolored. The state chemist may exempt any pesticide to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if the state chemist determines that coloring or discoloring is not necessary for the protection of the public health.~~

~~(6)~~ **(5)** Any pesticide product that is adulterated or misbranded.

~~(7)~~ **(6)** Any pesticide in containers violating rules adopted under section 10(3) of this chapter. Pesticides found in containers that are unsafe due to damage may be seized and impounded.

~~(8)~~ (7) A highly volatile herbicide, ~~(as defined in section 2(12) of this chapter)~~ except on written permission by the state chemist.

~~(9)~~ (8) Any bulk pesticide unless it is accompanied in all transfers of custody or ownership by or held in storage vessels to which is affixed a label bearing the information specified in subdivision (4).

SECTION 8. IC 15-3-3.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The state chemist shall require the submission of the complete formula of any pesticide product, including the confidential:

- (1) statement of formula;
- (2) analytical methods for the analysis of the pesticide formulation and the analysis of residues of the pesticide product in environmental media; and
- (3) analytical standards of the pesticide product.

In the case of a federally registered product, this requirement may be waived.

(b) **The state chemist shall register a pesticide product if:**

- (1) the state chemist determines that the composition of the pesticide product ~~is such as to warrant warrants~~ the proposed claims for it; ~~and if the pesticide product;~~
- (2) the pesticide product, and its labeling, and other material required to be submitted comply with the requirements of section 5 of this chapter; ~~the state chemist shall register the pesticide product; and~~
- (3) **the state chemist determines that the person submitting the application for registration has complied with the requirements of this chapter.**

(c) **The state chemist shall notify the applicant that the pesticide product, labeling, or other material required to be submitted fails to comply with the law if it does not appear to the state chemist determines:**

- (1) that the pesticide product is such as to warrant the proposed claims for ~~it the pesticide product;~~ or if
- (2) the pesticide product, ~~and~~ its labeling, and other material required to be submitted;

do not comply with this chapter.

(d) **If the state chemist notifies an applicant under subsection (c), the state chemist shall notify give the applicant of the manner in which the pesticide product, labeling, or other material required to be submitted fail to comply with the law so as to afford the applicant an opportunity to make the necessary corrections. If upon receipt of notice, the applicant does not make the corrections, the state chemist may refuse to register the pesticide product.**

~~(d)~~ (e) The state chemist, in accordance with the procedures specified in this section, may **deny**, suspend, or cancel the registration of a pesticide whenever the state chemist determines that:

- (1) the pesticide product; ~~or its~~
- (2) **the pesticide product's labeling; or**
- (3) **the person submitting the application for registration of the pesticide product;**

does not comply with this chapter.

~~(e)~~ **Whenever (f) If:**

- (1) an application for registration is refused; or
- (2) the state chemist proposes to **deny**, suspend, or cancel a registration;

notice of ~~such~~ the action ~~shall~~ and information concerning the person's right to obtain a review under section 7.5 of this chapter **must** be given to the applicant or registrant. ~~who shall have fifteen (15) days from the date of such notice to request a hearing on the proposed action in accordance with IC 4-21.5.~~

SECTION 9. IC 15-3-3.5-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7.5. (a) **A person who is:**

- (1) **regulated under this chapter; and**
- (2) **aggrieved by any decision of the state chemist;**

may obtain a review by the board if the person files a written petition with the board not later than thirty (30) days after the state chemist's decision.

(b) **The board shall provide a copy of a petition filed under subsection (a) to the state chemist not later than seven (7) days after receiving the petition.**

(c) **Not more than fifteen (15) days after receiving a petition under subsection (b), the state chemist shall certify and file with the board a transcript of any record related to the petition, including a transcript of any evidence received.**

(d) **Whenever a hearing is held under this section, the board may designate one (1) or more persons as the board's agent or representative to conduct the hearing. The agent or representative shall conduct the hearing in the manner provided by IC 4-21.5-3.**

(e) **After hearing the appeal, the board shall affirm, set aside, or modify the action of the state chemist. However, the state chemist's finding of facts that are supported by the substantial evidence is considered conclusive.**

(f) **A person aggrieved by any action of the board may obtain judicial review under IC 4-21.5-5.**

SECTION 10. IC 15-3-3.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) ~~There is created~~ The Indiana pesticide review board ~~consisting is established.~~ **The board consists of the following members:**

- (1) One (1) representative of the state department of health.
- ~~(2) One (1) representative of the state toxicologist.~~
- ~~(3) One (1) representative of the state veterinarian.~~
- ~~(4)~~ (2) One (1) representative of the department of natural resources.
- ~~(5)~~ (3) One (1) representative of the department of environmental management.
- ~~(6)~~ (4) One (1) representative of the Purdue University office of agricultural research programs.
- ~~(7)~~ (5) One (1) representative of the Purdue University cooperative extension service.
- ~~(8)~~ (6) Two (2) ecologists with earned doctorate degrees:
  - (A) one (1) a terrestrial ecologist; and
  - (B) one (1) an aquatic ecologist.

~~No more than one (1) ecologist may be from a state supported university or college and no~~ **Not more than one (1) ecologist may be a plant ecologist.**

~~(9)~~ (7) One (1) public representative.

~~(10)~~ (8) One (1) representative of the pesticide industry.

~~(11)~~ (9) Two (2) representatives of producers of agricultural crops or products on which pesticides are applied or that may be affected by the application of pesticides:

- (A) one (1) of whom represents producers of agronomic crops; and
- (B) one (1) of whom represents producers of nonagronomic crops.

~~(12)~~ (10) One (1) public representative from conservation organizations.

~~(13)~~ (11) Three (3) qualified scientists, one (1) each in the fields of entomology, plant pathology, and weed science. One (1) scientist must be the representative of either the Purdue University office of agricultural research programs or the Purdue University cooperative extension service.

~~(14)~~ (12) Three (3) certified and licensed commercial applicators of pesticides who must represent three (3) different certificate or license categories established under IC 15-3-3.6-5.

~~(15)~~ (13) The state chemist, who **is an ex officio member and shall serve as a nonvoting member.**

~~(16)~~ (14) The pesticide administrator for the office of the state chemist, who shall serve as a nonvoting member.

~~(17)~~ (15) The pesticide training coordinator, who shall serve as a nonvoting member.

(b) The voting members shall be appointed by the governor for terms of four (4) years **and, subject to subsection (d), continue until the member's successor is approved and qualified.** Appointments shall be made so that no more than five (5) terms expire annually.

(c) Voting members may be appointed for successive terms at the discretion of the governor.

(d) The governor may remove a voting member of the board prior to the expiration of the member's term for cause.

SECTION 11. IC 15-3-3.5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. ~~Ten (10)~~ **(a) Nine (9)** members of the board shall constitute a quorum. ~~and~~

**(b)** Official actions ~~will be~~ **are** subject to approval by a simple majority of board members present at a called meeting.

**(c)** The ~~chairman~~ **chairperson** shall actively participate in all decisions of the board.

SECTION 12. IC 15-3-3.5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. ~~State officials and staff members of state offices as well as Purdue University office of agricultural research programs and cooperative extension service staff members appointed to the board shall serve without compensation but shall be entitled to receive per diem payments at rates and under conditions incident to these positions.~~ **The following individuals appointed to the board shall serve without compensation but are entitled to receive per diem payments at rates and under conditions incident to these positions:**

**(1) State officials.**

**(2) Staff members of state offices.**

**(3) Staff members of the Purdue University office of agricultural research programs.**

**(4) Cooperative extension service staff members.**

Other members are entitled to reimbursement for traveling and other expenses as provided in the ~~state Purdue University~~ **state Purdue University** travel policies and procedures, established by the ~~Indiana Purdue University~~ **Purdue University** department of ~~administration~~ **transportation** and approved by the ~~budget agency.~~ **Purdue University vice president of business services.**

SECTION 13. IC 15-3-3.5-18, AS AMENDED BY P.L.40-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. The state chemist ~~individually or through the state chemist's agent~~ may do the following:

**(1)** Enter any public or private premises, including any vehicle of transport during regular business hours: ~~in order~~

**(A)** to:

**(i)** have access to; and ~~to~~

**(ii)** obtain samples of; pesticide products; and

**(B)** to:

**(i)** examine; and

**(ii)** copy;

records relating to ~~their the~~ **the** production, use, transportation, and sale of **pesticide products**, subject to this chapter and the rules adopted under this chapter.

**(2)** Enter at ~~at a reasonable times~~ **a reasonable time** in or upon any:

**(A)** private; or

**(B)** public property;

for the purpose of inspection and investigating conditions possibly resulting from the use or misuse of a pesticide product.

SECTION 14. IC 15-3-3.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. **(a)** The examination of pesticide products shall be made under the direction of the state chemist for the purpose of determining whether the pesticide products comply with ~~the requirements of~~ this chapter.

**(b)** If it appears after an examination that a pesticide product fails to comply with this chapter, and the state chemist

contemplates instituting proceedings against any person, the state chemist shall ~~cause~~ **give** appropriate notice to ~~be given to~~ the person. ~~Any~~

**(c)** A person notified **under subsection (b)** shall be given an opportunity to present the person's views, either orally or in writing, with regard to the contemplated proceedings, ~~and; to the state chemist.~~

**(d)** If ~~in the opinion of~~ the state chemist it ~~shall appear that~~ **determines that a person violated** this chapter, ~~has been violated by the person; then subject to subsection (e),~~ the state chemist ~~shall may~~ refer the facts to the prosecuting attorney for the county in which the violation occurred with a copy of the results of the analysis or the examination of the pesticide product. ~~Nothing in~~

**(e)** This chapter may **not** be construed as requiring the state chemist to report for prosecution or for the institution of other proceedings minor violations of this chapter whenever the state chemist believes that the public interests will be best served by other action.

SECTION 15. IC 15-3-3.5-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. **(a)** Except as provided in subsection ~~(c);~~ **(f), whenever if the state chemist:**

**(1)** finds any pesticide product: is found by the state chemist

**(A)** upon any premises; or

**(B)** in any means of conveyance;

where it is held for purposes of, or during or after, distribution, ~~or sale, or use;~~ and

**(2)** there is reason to believe ~~determines~~ that the pesticide product:

**(A)** is in violation of this chapter; or ~~that the pesticide product~~

**(B)** has been or is intended to be:

**(i)** distributed; ~~or~~

**(ii)** sold; or

**(iii)** used;

in violation of this chapter;

the state chemist may issue a ~~written or printed stop sale, use, or removal order to the owner or custodian of the pesticide product, and after receipt of the order, the owner or custodian may not sell, use, or remove the pesticide product described in the order except in accordance with the provisions of the order or until the pesticide product is released in writing by the state chemist or by order of a proper court.~~ **an order under subsection (b).**

**(b)** The state chemist may issue a written or printed:

**(1)** stop sale;

**(2)** use; or

**(3)** removal;

**order to the owner or custodian of a pesticide product.**

**(c)** Except as provided in subsection **(d)**, after receiving an order under subsection **(b)**, the owner or custodian of a pesticide product may not:

**(1)** sell;

**(2)** use; or

**(3)** remove;

**the pesticide product described in the order.**

**(d)** The owner or custodian of a pesticide product who receives an order under subsection **(b)** may:

**(1)** sell;

**(2)** use; or

**(3)** remove;

**the pesticide product only in accordance with the provisions of the order or until the pesticide product is released in writing by the state chemist or by order of a court.**

~~(b)~~ **(e)** When a stop sale order is issued under subsection ~~(a);~~ **(b)**, the state chemist shall immediately issue a notification to the dealer or registrant of the pesticide product that states the following:

**(1)** A stop sale order has been issued on the pesticide

product.

(2) A reference to the specific language of the law or regulation rule that is believed to have been violated.

(c) (f) Labels of pesticide devices may be submitted to the state chemist for approval before the sale of the pesticide device.

SECTION 16. IC 15-3-3.5-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 35. ~~(Delegation of Duties) All authority~~ **The state chemist may delegate to an employee or agent any function that is** vested in the state chemist by virtue of the provisions of this chapter. ~~may with like force and effect be executed by his authorized agent or agents.~~

SECTION 17. IC 15-3-3.6-2, AS AMENDED BY P.L.40-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter:

(1) "Agricultural commodity" means any plant, or part of a plant, and animals or animal products produced primarily for sale, consumption, propagation, or other use by man or animals.

(2) "Animal" means all vertebrate and invertebrate species, including man and other mammals, birds, fish, and shellfish.

(3) "Beneficial insects" means insects that, during some part of their life cycles, are effective pollinators of plants, are parasites or predators of pests, or are otherwise useful to man.

(4) "Board" means the Indiana pesticide review board established by IC 15-3-3.5.

(5) "Certified applicator" means any individual who is certified under this chapter as qualified to use or supervise the use of pesticides and has been issued a certificate as evidence of the individual's qualifications.

(6) "Private applicator" means a certified applicator who uses or supervises the use of pesticides for purposes of producing any agricultural commodity on property owned, rented, or managed by the employer or the applicator, if applied without compensation on the property of another person.

(7) "Commercial applicator" means a certified applicator, whether or not a private applicator with respect to some uses, who uses or supervises the use of pesticides for any purpose or on any property other than as provided by subdivision (6).

(8) "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(9) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(10) "Device" means any instrument or contrivance, other than a firearm, that is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life other than man, bacteria, virus, or other microorganism on or in living man or other living animals. This term does not include equipment used for the application of pesticides when sold separately from the pesticides.

(11) "Distribute" means to offer for sale, sell, exchange, barter, or otherwise supply or offer to supply a pesticide.

(12) "Environment" includes water, air, land, and all plants and man and other animals living in water, air, or on land and the interrelationships that exist among these.

(13) "Equipment" means any type of ground, water, or aerial apparatus or contrivance using motorized, mechanical, or pressurized power, used to apply any pesticide.

(14) "Fungus" means any nonchlorophyll-bearing plant of a lower order than mosses and liverworts, including rust, smut, mildew, mold, yeast, and bacteria, except those on or

in living man or other animals, and those on or in processed food, beverages, or pharmaceuticals.

(15) "Insect" means any small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six (6) legged, usually winged forms, including beetles, bugs, bees, flies, and other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, including spiders, mites, ticks, centipedes, and wood lice.

(16) "Licensed pesticide business" means any licensed person that owns, operates, or manages a business that is engaged in or professes to be engaged in:

(A) using any pesticide, including restricted use pesticides; or

(B) making diagnostic inspections or reports to determine infestations of wood destroying pests.

(17) "Licensed applicator for hire" means any licensed certified commercial applicator who is employed by a licensed pesticide business to use or to supervise the use of any pesticide on the property of another and who has assumed direct responsibility for the use or supervision of the use of pesticides by the business.

(18) "Licensed public applicator" means a licensed certified commercial applicator who uses or supervises the use of a restricted use pesticide as an employee of a state agency, municipal corporation, or other governmental agency. The term includes a commercial applicator using a pesticide in a potentially hazardous situation or site as determined by the board.

(19) "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda. These are unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts. Nematodes may also be called nemas or eelworms.

(20) "Permit" means a written certificate issued by the state chemist or the state chemist's authorized agent to a private applicator, authorizing the purchase, possession, or use of restricted use pesticides.

(21) "Person" means any individual, partnership, association, fiduciary, corporation, or any organized group of persons whether incorporated or not.

(22) "Pest" means:

(A) any insect, rodent, nematode, fungus, or weed; or

(B) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganisms on or in living man or other living animals) that is declared to be a pest by the administrator of the United States Environmental Protection Agency or by the board.

(23) "Pesticide" means:

(A) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; or

(B) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(24) "Plant regulator" means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation or for otherwise altering the behavior of plants or the produce of plants. The term does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

(25) "Property" means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, **vehicles**, and machinery, appurtenant to or situated on land and water areas, fixed or mobile, including

any used for transportation.

(26) "Restricted use pesticide" means:

(A) any pesticide classified as restricted by the Administrator of the United States Environmental Protection Agency; or

(B) a pesticide that the board has determined to be unduly hazardous to persons, animals, plants, wildlife, waters, or lands other than the pests the pesticide is intended to prevent, destroy, control, or mitigate.

(27) "Unreasonable adverse effects on the environment" means an unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

(28) "Weed" means any plant which grows where it is not wanted.

(29) "Wildlife" means all living things that are not human, domesticated, or pests. This term includes mammals, birds, reptiles, and aquatic life.

(30) "Certificate of financial responsibility" means a notarized statement from an officer of a bank or other financial institution attesting to the fact that a licensee under this chapter has adequate financial resources equal to the amount of liability insurance or bonding required by rule under section 13 of this chapter to protect persons who may suffer legal damages as a result of the applicator's pesticide operations or the pest inspector's inspections.

(31) "Registered pesticide dealer" means any person who distributes any restricted use pesticide.

(32) "Licensed applicator not for hire" means a licensed certified commercial applicator who is employed by a private employer to use or supervise the use of a restricted use pesticide only on the property of the employer. The term includes a commercial applicator using a pesticide in a potentially hazardous situation or site as determined by the board.

(33) "Pesticide consultant" means a person engaged in the retail sale of pesticides who:

(A) offers or supplies technical advice to;

(B) aids; or

(C) makes recommendations to;

another person concerning the use of a pesticide as part of business.

(34) "Pesticide formulation" means a pesticide product comprised of all active ingredients and inert ingredients.

(35) "Pesticide product" means a pesticide or device offered for distribution or use, including any labeling.

(36) "Registered technician" means a person who:

(A) is not licensed under this chapter;

(B) has registered with the state chemist; and

(C) is authorized to engage in pesticide use and related activities under the direct supervision of a licensed and certified applicator.

(37) "Use" means an act of handling, releasing, or exposing individuals or the environment to a pesticide. The term includes the following:

(A) Application or supervision of an application of a pesticide, including mixing or loading the pesticide.

(B) Storage of pesticides and pesticide containers by the intended applicator of the pesticides.

(C) Transportation of pesticides and pesticide containers by the intended applicator of the pesticides.

(D) Disposal of pesticides and pesticide containers by the intended applicator of the pesticides.

(38) "Licensed pest inspector" means an individual licensed under this chapter to make diagnostic inspections or reports to determine infestations of wood destroying pests on the property of another person and meets the requirements under section 13 of this chapter.

SECTION 18. IC 15-3-3.6-6, AS AMENDED BY P.L.40-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) **Subject to section 10 of this chapter**, a person may not engage in or profess to engage in the business of:

(1) using a pesticide; or

(2) making diagnostic inspections or reports to determine infestations of wood destroying pests;

on the property of another for hire at any time without a pesticide business license issued by the state chemist. The state chemist shall require an annual license fee of forty-five dollars (\$45) for each pesticide business license **that is** issued.

(b) A pesticide business license must be obtained for each business location from which pesticide use or application is conducted.

(c) The application for a license ~~shall be made~~ **must be** on a form provided by the state chemist. Each application ~~shall~~ **must** contain information necessary for the administration of this chapter.

(d) The state chemist may not issue a pesticide business license until the applicant or a pesticide applicator in the applicant's hire who uses or supervises the use of a pesticide on the property of another is certified by passing an examination to demonstrate to the state chemist the applicant's or applicator's knowledge of the:

(1) use of pesticides under the category for which the applicant or applicator has applied; and ~~the applicant's or applicator's knowledge of the~~

(2) nature and effect of pesticides the applicant or applicator may apply under the categories.

At least one (1) licensed applicator for hire must be associated with each location from which pesticides are used for hire.

(e) The state chemist may renew any **pesticide** business license.

(f) **Subject to subsections (a), (b), (c), and (d) and section 14 of this chapter**, if:

(1) the state chemist finds the applicant qualified to engage in the business of using pesticides **or making diagnostic inspections or reports to determine infestations of wood destroying pests** on the property of another;

(2) the applicant files evidence of financial responsibility required under section 13 of this chapter; and

(3) the applicant applying for a license involving aerial application of pesticides has met all of the requirements of:

(A) the Federal Aviation Administration;

(B) the Indiana department of transportation; and

(C) any other applicable federal or state statutes or regulations to operate the equipment described in the application;

the state chemist ~~shall~~ **may** issue a pesticide business license limited to the categories for which the applicant or a pesticide applicator in the applicant's hire is qualified. The license ~~shall expire~~ **expires** January 1 of the year following issue unless it has been invalidated, revoked, or suspended earlier by the state chemist. ~~Any~~ **A** surety bond or certificate of liability insurance in force or certificate of financial responsibility required under section 13 of this chapter must be maintained and in effect on a continuing basis.

(g) The state chemist may limit a license or the operation of a business to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified.

(h) If a license is not issued as applied for, the state chemist shall inform the applicant in writing of the reasons the license was not issued.

SECTION 19. IC 15-3-3.6-8.1, AS AMENDED BY P.L.40-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8.1. (a) A person applying for a license described under section 7, 7.1, or 8 of this chapter must:



- (1) submit an application to the state chemist on a form provided by the state chemist;
- (2) pass the appropriate examination provided under section 5 of this chapter;
- (3) except for a person applying for a licensed public applicator's license, submit a fee of forty-five dollars (\$45) to the state chemist; and
- (4) if the person will engage in the aerial application of pesticides, submit proof to the state chemist that the person has satisfied aerial application requirements under applicable state and federal laws.

(b) **Subject to section 14 of this chapter**, if a person meets the requirements under subsection (a), the state chemist ~~shall~~ **may** issue the appropriate license to the person.

(c) If the state chemist does not issue a license to a person ~~that~~ **who** applied for a license described under subsection (a), the state chemist shall inform the person in writing of the reason the license was not issued.

(d) A person ~~that~~ **who** has been issued a license under subsection (b):

- (1) shall notify the state chemist in writing within ten (10) days after a change in or termination of the person's employment as a licensed applicator for hire, a licensed applicator not for hire, or a licensed public applicator; and
- (2) may apply to the state chemist to transfer or amend the person's license by submitting an updated application form described under subsection (a)(1).

(e) A license issued under subsection (b):

- (1) expires January 1 of each year; and
- (2) **subject to section 14 of this chapter**, may be renewed by the person holding the license if the person:
  - (A) submits a renewal application on a form provided by the state chemist; and
  - (B) except for a person renewing a licensed public applicator's license, pays a forty-five dollar (\$45) renewal fee;
    - before January 1.

SECTION 20. IC 15-3-3.6-13, AS AMENDED BY P.L.40-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) The state chemist may not issue a pesticide business license or a pest inspector license until the applicant for the license has furnished a surety bond, a certificate of liability insurance in force, or a certificate of financial responsibility to protect persons who may suffer legal damages as a result of the pesticide operations or pest inspections of the applicant. If the surety bond, liability insurance, or financial responsibility is not maintained at all times during the licensing period, the pesticide business license, pest inspector license, and any associated commercial applicator licenses **and technical registrations** are invalid. The applicant may not engage in or profess to be engaged in the business of using pesticides or pest inspection until the financial responsibility is ~~brought into~~ **in** compliance and the applicant's license is reinstated by the state chemist.

(b) ~~Nothing in~~ This chapter ~~relieves~~ **does not relieve** any person from liability for any damage to the person or property of another caused by the use of pesticides even though the use conforms to the rules adopted under this chapter.

SECTION 21. IC 15-3-3.6-14, AS AMENDED BY P.L.40-2006, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. Subject to section 14.5 of this chapter, the state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on a person for a violation under this chapter. The state chemist may also deny, suspend, revoke, or modify any provision of any license, permit, registration, or certification issued under this chapter if the state chemist finds that the applicant or the holder of a license, permit, registration, or certification has committed any of the following acts, each of which is a violation of this chapter:

(1) Made false or fraudulent claims **either verbally or** through any media misrepresenting the effect of pesticides or methods to be ~~utilized~~ **used**.

(2) Recommended, used, or supervised the use of any registered pesticide in a manner inconsistent with its labeling approved by the United States Environmental Protection Agency or Indiana state registration for that pesticide, or in violation of the United States Environmental Protection Agency or Indiana state restrictions on the use of that pesticide.

(3) Used known ineffective or improper pesticides **or known ineffective amounts of pesticides**.

(4) Operated faulty or unsafe equipment.

(5) Operated in a careless or negligent manner.

(6) Neglected or, after notice, refused to comply with this chapter, the rules adopted under this chapter, or of any lawful order of the state chemist **or the board**.

(7) Refused or neglected to:

(A) keep and maintain the records required by this chapter; or ~~to~~

(B) make reports and supply information when required **or requested by the state chemist in the course of an investigation or inspection**.

(8) Made false or fraudulent records, invoices, or reports.

(9) Engaged in or professed to be engaged in the business of:

(A) using a pesticide; or

(B) making a diagnostic inspection to determine infestations of a wood destroying pest;

for hire on the property of another without having a pesticide business license.

(10) Used a restricted use pesticide without having an applicator who is licensed or permitted under this chapter in direct supervision.

(11) Used fraud or misrepresentation in making an application for, or renewal of, a license, permit, registration, or certification.

(12) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification.

(13) Aided or abetted a person to evade the provisions of this chapter, conspired with a person to evade the provisions of this chapter, or allowed a license, permit, registration, or certification to be used by another person.

(14) Made false or misleading statements during or after an inspection concerning any infestation or infection of pests.

(15) Impersonated any federal, state, county, or city inspector, investigator, or official.

(16) Knowingly purchased or used a pesticide that was not registered under IC 15-3-3.5.

(17) Failed to continuously maintain financial responsibility required under section 13 of this chapter **or to provide proof of financial responsibility to the state chemist when requested**.

(18) **Intentionally altered a duly issued license, permit, registration, or certification.**

(19) **Recklessly, knowingly, or intentionally impeded or prevented the state chemist or the state chemist's agent from performing a duty of the state chemist.**

SECTION 22. IC 15-3-3.6-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) A person who **recklessly, knowingly, or intentionally**:

(1) violates this chapter; or

(2) impedes ~~hinders~~, or prevents the state chemist or the state chemist's ~~authorized agent in performance from~~ **performing a duty** of the state ~~chemist's duty~~ **chemist**; commits a Class C misdemeanor.

(b) A person who **recklessly, knowingly, or intentionally**:

(1) violates section 14(9) of this chapter after the state

chemist has issued written notification to that person regarding a previous violation of section 14(9) of this chapter; or

**(2) physically assaults the state chemist or the state chemist's agent while performing a duty of the state chemist;**

commits a Class A misdemeanor.

(c) The state chemist may bring an action to enjoin the violation or threatened violation of this chapter or ~~any a rule made~~ under this chapter. A court may not allow the recovery of damages for ~~an~~ administrative action taken ~~under this subsection~~ if the court finds that there was probable cause for the action.

SECTION 23. IC 15-3-3.6-18, AS AMENDED BY P.L.40-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) The state chemist may enter upon any public or private property at reasonable times, in order to do the following:

- (1) Observe the use and application of a pesticide.
- (2) Inspect ~~any~~ equipment subject to this chapter.
- (3) Inspect and sample property actually or reported to be exposed to pesticides.
- (4) Inspect storage or disposal areas.
- (5) Inspect or investigate complaints of injury to humans or property.
- (6) Sample pesticides being used or to be used.
- (7) Inspect and obtain copies of pesticide sale, distribution, purchase, use, storage, and disposal records.

**(b) If the state chemist is denied access to any property for the purposes set forth in this chapter,** The state chemist may, upon showing a need, apply to any court ~~of competent with~~ jurisdiction for a search warrant authorizing access to the property. ~~for said purposes.~~ The court may, ~~upon such after receiving the application and after finding a need,~~ issue the search warrant for the purposes requested.

(c) ~~Each A~~ prosecuting attorney to whom ~~any a~~ violation of this chapter is reported may institute and prosecute the violation in a court ~~of competent with~~ jurisdiction of that county without delay. The state chemist may apply for and the court grant a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or any rule adopted under this chapter notwithstanding the existence of other remedies at law. The injunction may be issued without bond.

SECTION 24. IC 15-3-3.6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. **(a)** Commercial applicators and licensed pest inspectors shall maintain records ~~with respect to applications concerning:~~

- (1) the application** of restricted use pesticides; ~~and~~
- (2) diagnostic inspections** to determine infestations of wood destroying pests; ~~and~~
- (3) any relevant information that** the state chemist ~~may deem determines by rule is necessary to further for the purposes of this chapter. may be specified by rule:~~

**(b)** The state chemist may require certified applicators to maintain records related to applications of state restricted pesticide uses. ~~These~~

**(c)** Records ~~shall required under this section must~~ be kept for a period of two (2) years from the date of the ~~inspection or the application of the pesticide, to which the records refer, and or for the time specified by rule.~~

**(d)** The state chemist shall be provided access to the records by the commercial applicator ~~or licensed pest inspector.~~

SECTION 25. IC 15-3-3.6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. **(a)** The state chemist may ~~by regulation adopt rules to require the reporting of significant pesticide accidents or incidents.~~

**(b)** Any person:

- (1)** claiming damages from a pesticide accident ~~shall or incident; and~~

**(2) requesting an investigation of those damages by the state chemist;**

~~must file a claim on a form provided by a report with the state chemist. This report must be filed within sixty (60) days after the date that damages occurred.~~ If a growing crop is alleged to have been damaged, the report must be filed before twenty-five percent (25%) of the crop has been harvested. ~~The state chemist shall, within seven (7) days after the receipt of such statement, notify the licensee and the owner or lessee of the property or other persons who may be charged with the responsibility for the damages claimed; and furnish copies of such statements as may be requested.~~

SECTION 26. IC 15-3-3.6-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. The state chemist may cooperate with, and enter into agreements with, any other agency of ~~this the~~ state, any federal agency, or any other state agency or nongovernmental organization for the purpose of carrying out this chapter to:

- (1) secure uniformity of rules;
- (2) cooperate in the enforcement of the federal pesticide control laws through the use of state or federal personnel and facilities and to implement cooperative enforcement programs;
- (3) develop and administer state plans for certification of applicators consistent with federal standards;
- (4) contract or cooperate with agencies or organizations for the purpose of training applicators;
- (5) contract for monitoring pesticides; ~~for the national plan;~~
- (6) prepare and submit state plans to meet federal certification standards;
- (7) regulate certified applicators; administer and enforce requirements under this chapter; and**
- (8) make reports to the United States Environmental Protection Agency as the agency ~~may require.~~ **requires.**

SECTION 27. IC 15-3-3.6-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. The state chemist may waive all or part of the requirements provided for in sections 3, 5, 6, 7, 7.1, 8, 8.1, 8.3, 9, ~~10.1~~, and 12 of this chapter on a reciprocal basis with any other state agency or federal agency that has substantially the same standards.

SECTION 28. IC 15-3-3.6-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24. **(a)** A person may not transport, store, or dispose of any pesticide or pesticide containers in a manner ~~as to that may~~ cause injury to humans, beneficial vegetation, crops, livestock, wildlife, beneficial insects, or to pollute any waterway in a way harmful to any wildlife in a waterway.

**(b)** The board may adopt rules governing the storage and disposal of pesticides or pesticide containers. In determining these standards, the board shall take into consideration any regulations issued by the United States Environmental Protection Agency.

SECTION 29. IC 15-5-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. A commercial feed, except a custom-mixed feed, ~~shall must~~ be accompanied by a label bearing the following information:

- (1) The net weight.
- (2) The product name and the brand name, if any, under which the commercial feed is distributed.
- (3) The guaranteed analysis stated in ~~such the terms as that the director, state chemist, by regulation rule,~~ determines ~~is are~~ required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by ~~the Association of Official Analytical Chemists. AOAC International.~~
- (4) The common or usual name of each ingredient used in the manufacture of the commercial feed. ~~Provided, That~~

However, the director, state chemist, by regulation rule, may:

- (i) (A) permit the use of a collective term for a group of ingredients ~~which that~~ perform a similar function; or
- (ii) (B) exempt ~~such a commercial feeds, feed or any group thereof, of commercial feeds from this the~~ requirement of for an ingredient statement if ~~he the~~ state chemist finds that such a statement is not required in the interest of consumers.
- (5) The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed.
- (6) Adequate directions for use for: ~~all~~
  - (A) commercial feeds containing drugs; and ~~such~~
  - (B) other feeds ~~as that the director may require state chemist requires~~ by regulation rule as necessary for their safe and effective use.
- (7) ~~Such~~ Precautionary statements ~~as that the director state chemist by regulation rule~~ determines are necessary for the safe and effective use of the commercial feed.

SECTION 30. IC 15-5-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. Custom-mixed feed ~~shall~~ must be accompanied by a label, invoice, delivery slip, or other shipping document bearing the following information:

- (1) Name and address of the manufacturer.
- (2) Name and address of the purchaser.
- (3) Date of delivery.
- (4) The product name and brand name, if any, and the net weight of each ~~registered~~ commercial feed used in the mixture, and the common or usual name and net weight of each other ingredient used, and the specific content, stated in terms as required in section 6 of this chapter, of any nutrients and nonnutritive additives added at the request of the purchaser.
- (5) Adequate directions for use for: ~~all~~
  - (A) custom-mixed feeds containing drugs; and ~~for such~~
  - (B) other feeds ~~as that the director may require state chemist requires~~ by regulation rule as necessary for their safe and effective use.
- (6) ~~Such~~ Precautionary statements ~~as that the director state chemist by regulation rule~~ determines are necessary for the safe and effective use of the custom-mixed feed."

Renumber all SECTIONS consecutively.

(Reference is to ESB 123 as printed February 15, 2008.)

GUTWEIN

Motion prevailed. The bill was ordered engrossed.

### Engrossed Senate Bill 197

Representative Bartlett called down Engrossed Senate Bill 197 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### Engrossed Senate Bill 250

Representative Reske called down Engrossed Senate Bill 250 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### Engrossed Senate Bill 305

Representative Tyler called down Engrossed Senate Bill 305 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### Engrossed Senate Bill 360

Representative Grubb called down Engrossed Senate Bill 360 for second reading. The bill was read a second time by title.

### HOUSE MOTION (Amendment 360-1)

Mr. Speaker: I move that Engrossed Senate Bill 360 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 15-9-5-2, AS ADDED BY P.L.182-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "fueling station" refers to tangible property (other than a building and its structural components):

(1) consisting of:

(1) (A) a tank;

(2) (B) a pump; and

(3) (C) other components; and

(2) that is used by either:

(A) a person engaged in the business of selling motor fuel at retail to enable motor fuel to be dispensed directly into the fuel tank of a customer's motor vehicle; or

(B) a unit to enable motor fuel to be dispensed directly into the fuel tank of a motor vehicle owned or leased by the unit.

SECTION 2. IC 15-9-5-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.5. As used in this chapter, "unit" means a city, town, county, or township."

Page 1, line 4, after "person" insert "or unit".

Page 2, line 5, strike "person's" and insert "grant recipient's".

Page 2, line 10, delete "person's" and insert "grant recipient's".

Renumber all SECTIONS consecutively.

(Reference is to ESB 360 as printed February 12, 2008.)

DEMBOWSKI

Motion prevailed. The bill was ordered engrossed.

### Engrossed Senate Bill 343

Representative Day called down Engrossed Senate Bill 343 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

## OTHER BUSINESS ON THE SPEAKER'S TABLE

### Reassignments

The Speaker announced the following reassignments:

Engrossed Senate Bill 111 from the Committee on Rules and Legislative Procedures to the Committee on Education.

Engrossed Senate Bill 148 from the Committee on Rules and Legislative Procedures to the Committee on Ways and Means.

### HOUSE MOTION

Mr. Speaker: I move that Representative Bartlett be added as cosponsor of Engrossed Senate Bill 171.

PORTER

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative L. Lawson be removed as sponsor of Engrossed Senate Bill 329, Representative VanHaaften be substituted as sponsor, and Representative L. Lawson be added as cosponsor.

L. LAWSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Ruppel be added as cosponsor of Engrossed Senate Bill 343.

DAY

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Stemler, the House adjourned at 5:00 p.m., this eighteenth day of February, 2008, until Tuesday, February 19, 2008, at 1:30 p.m.

B. PATRICK BAUER

Speaker of the House of Representatives

CLINTON McKAY

Principal Clerk of the House of Representatives